DIVORCE AND NULLITY

R. H. CHARLES
D.D., D.Litt., LL.D.

A study, occasioned by recent controversy regarding the Roman Church's declarations of nullity in certain cases. The questions at issue are dealt with from the standpoint of our Lord's teaching

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DIVORCE AND THE ROMAN DOGMA OF NULLITY

BY

R. H. CHARLES, D.D., D.LITT., LL.D.

ARCHDEACON OF WESTMINSTER
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PREFACE

In this little book I have embodied the Course of Sermons which I preached in Westminster Abbey last July on the subject of "Divorce and the Roman Dogma of Nullity." So far as it deals with Divorce, the present book is necessarily based in a large measure on my earlier study, *The Teaching of the N.T. on Divorce*, which was published in 1921 by Messrs. Williams & Norgate. By their kind permission I have drawn freely on its materials and conclusions. But the present work by no means replaces the first, which provides a fulness of evidence inadmissible in this work. On the other hand, the study of this subject is carried forward in the present work to a further stage. Thus it is shown not only that the narrative in Mark x. 2–12 is untrustworthy, but also that the First Evangelist (Matt. xix. 3–9)

deliberately rejected the Marcan record as unhistorical and replaced it by a record of events drawn from Q, that is in harmony with all other contemporary documents of the first century, bearing on the subject, Christian or Jewish.

Next, since Luke xvi. 18 preserves only two clauses of this narrative, and since xvi. 18[a] agrees with Matt. xix. 9[a], and xvi. 18[b] is an exact equivalent of Matt. xix. 9[b] against Mark x. 12 (cf. v. 32), it follows that Luke xvi. 18 must be interpreted from the context provided by Matt. xix. 3–9. Since Luke uses Q independently of Matthew, Luke xvi. 18 attests independently the trustworthiness of Matt. xix. 3–9.

From the above, it follows that the original narrative in Q, from which Matt. xix. 3–9 and Luke xvi. 18 are independently derived, was not designed to prove the indissolubility of marriage, but to condemn divorce when resorted to on inadequate grounds — a condemnation which applies in an intensified degree to the inadequate

grounds authoritatively stated by the Roman Church as making marriage null and void. It took no account of divorce on the ground of adultery, which is accepted as a valid ground in John viii. 3–11.

If Mark x. 2–12 is unhistorical, the only foundation in the Gospels for the dogma of the indissolubility of marriage disappears, and with it the still more erroneous Roman dogma of Nullity.

There is but little hope of the Roman Church recognising any conclusion of Biblical Criticism, which runs counter to its own dogmas. Although 1 John v. 7–8 contains an interpolation (in A.V., but omitted in R.V.) which is not found in any Greek MS. or Lectionary before the fourteenth century, nor in any Greek Father, even when writing on the subject of the Trinity, nor in any ancient version except the Latin, and there not in its earliest forms as the Old Latin, nor in Jerome's version, nor Alcuin's, yet this interpolation is recognised as plenarily inspired by Rome.

Preface

It only remains for me to express my thanks to a friend who—at once a theologian and a philosopher—has revised my proofs, and made many excellent suggestions, and also to Mr. W. Reeve Wallace, C.B.E., of the Privy Council Office, to whom I am much beholden on several questions.

R. H. CHARLES.

4 Little Cloisters,
Westminster Abbey,
8th October 1927.

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DIVORCE AND NULLITY

CHAPTER I

THE NEW TESTAMENT DOCTRINE OF DIVORCE AND THE ROMAN DOGMA OF NULLITY

§ 1. *Recent events have brought into strong relief the Roman Dogma of Nullity. Hence this fresh examination of the New Testament teaching on Divorce. Two main conclusions arrived at in my former study.*

Seven years ago I preached from the Abbey pulpit a sermon on Divorce, which I subsequently expanded into a short book on this question. A recent controversy on the nullity of certain marriages as propounded by the Roman Church made me examine afresh the conclusions at which I had arrived, and as a result of that fresh study I feel it my duty to deal anew with the questions at issue from the standpoint of our Lord's teaching. Before I enter on the changed aspect of the controversy in question, I may state simply

two of the main conclusions to which I was led in that former study. 1. The first was that marriage is dissoluble when there is an absolute breach of its essential conditions—that is, when the husband is disloyal to his wife or the wife to her husband, the marriage is *ipso facto* thereby dissolved;[1] and the State in issuing the decree of divorce is not putting asunder those whom God

[1] This question is dealt with in my *Teaching of the N.T. on Divorce*, from p. 20 of which I quote the following passage: "Just as the essential relation in every true marriage originates in the faithful troth of man and maid either to other, while the relation next in importance consists in the Church's recognising and blessing this mutual consecration of each to the other . . so unfaithfulness on the part of either breaks the essential relation *though not the official or legal relation established by the Church or State* until the divorce is carried out. But just as the two persons concerned initiate the essential relation, . . . so it lies in their power, when married, to renew this essential relation when it is dissolved by unfaithfulness on either side. The forgiveness of the guilty by the guiltless on the repentance of the former *makes the continuance of true marriage possible*. Otherwise, if one of the two is unfaithful, and if this unfaithfulness comes to the knowledge of the other, the other cannot condone it. Unless the sin is repented of by the guilty and forgiven by the guiltless, subsequent marital relations, *though still civilly and ecclesiastically legitimate*, are from the standpoint of true Christian marriage irregular. . . . The faithful husband who is unacquainted with the secret sin of his wife is of course guiltless in this matter, and the purity of his conjugal relations is unaffected by the secret sins of his wife. The same holds true in regard to the relations of the faithful wife to a husband who is faithless to her but whose disloyalty is unknown to her."

Again I quote from p. 69 (note) of the same work. "Till the guilty partner . . . repents and is reconciled, the breach is not healed. Divine

hath joined together, but is only recognising the already existing fact, that, by the disloyalty of either or both, the persons in question have

forgiveness is, of course, granted to the truly repentant offender. Whether true repentance and the confession of such a sin to God . . . are adequate without confession to the wronged spouse and subsequent forgiveness on his or her part, is questionable." It may be adequate, but the teaching of Christ on analogous offences—cf. Matt. v. 23–24—would imply that human forgiveness should precede the Divine in such a case.

I have added this note as many of my correspondents asked, after my first sermon on July 10, 1927, if remarriage by the Church or State was in such circumstances necessary. From the above reasoning, based on the Pauline teaching (see my book, pp. 67–69: also pp. 55, 60, 69 of the present book), it follows that no fresh religious or other ceremony is necessary.

Another question that vexes some inquirers is the legitimacy or illegitimacy of the children, where one of the parents is secretly unfaithful. From the standpoint of civil law the children are legitimate until the infidelity in question is brought to light, and the children are proved to be the offspring of some man other than the husband. Until the law intervenes, there can be no question from the *civil* standpoint of the parents living in concubinage nor of the children being illegitimate. From the point of Divine law, the *secretly disloyal parent* is living in concubinage, but the Supreme Judge, who knows the secrets of all hearts, will not, of course, on that account regard the innocent parent as in any sense guilty, nor the innocent offspring as in any sense affected.

Thus the objection of a Jesuit writer in *The Times* (July 13) is shown to be groundless, who writes as follows: "According to Archdeacon Charles, his sin (*i.e.* the husband's) *ipso facto* dissolved his marriage, and consequently the man and his supposed 'wife' have really been living in concubinage all these years and presumably his children are illegitimate. I assume that the man, to spare his wife the pain, did not tell her of his infidelity when he repented." In passing it may be re-

already put themselves asunder. 2. The second conclusion was that the guiltless[1] has the right

marked that this Jesuit ignores the fact that in the Roman Church a marriage remains valid, though the husband or wife has numerous paramours. In Roman Catholic marriages a proportion of the children—often a large proportion—must be illegitimate—at all events in the Latin countries.

[1] Several Roman Catholic writers have charged me with being illogical in maintaining that the essential bond of marriage *is completely broken by disloyalty* and yet that the Church can grant its benediction only to the guiltless, in the case of remarriage, and not to the guilty. It is rather ludicrous for Roman Catholics to advance this charge of lack of logic in matters of marriage, seeing that they maintain that the children of parents, whose marriage their Church has declared null and void, and whose only intimate relations, therefore, have been those of shame and sin, are yet legitimate ! (see further on p. 75 sqq.).

But it is needless to press home here this glaring illogicality, since, even when proved to the hilt, it would not justify a lesser offence of the same nature on the part of the present writer. What is required here is the proof that the conclusion in the text is perfectly logical. The conclusion that the bond of marriage is severed by disloyalty is, apart from the untrustworthy record in Mark x. 2–12, that of the entire N.T. (First, Third, and Fourth Evangelists, and 1 Corinthians). As regards remarriage, the attitude of the State and that of the Church to marriage must be carefully differentiated, as will be obvious as we advance. Marriage is not only a religious but a civil contract. So long as the latter endures, the religious bond can be renewed by the two parties affected. So far their action is the concern of God and of themselves. But if the guiltless appeals to the State and secures the abrogation of the civil contract, then the two persons, whose marriage is dissolved, stand in one relation to the State and in quite a different relation to the Church. The guilty can contract a fresh marriage through the agency of the State, but not through the Church. The Church can rightly allow the remarriage of the guiltless since the breach is absolute, but it cannot extend its nuptial benediction to the guilty, though, even

to contract a fresh marriage with the benediction of the Church. As I have already stated, it was the recent Roman declaration of nullity on inadequate grounds—grounds on which our English Courts of Justice would certainly refuse a divorce—that led me to study afresh the teaching of our Lord on this question.

§ 2. *Conflicting views of the Reformed and Eastern Churches and of the Church of Rome to be traced respectively to the conflicting narratives in Matt. xix. 3–9 and Mark x. 2–12, recording our Lord's controversy with the Pharisees on this subject.*

In the following pages it will be my task to prove that the conflicting views of the Reformed and Eastern Churches and of the Church of Rome on marriage are to be traced respectively to the narratives in Matt. xix. 3–9 and Mark x. 2–12, which record our Lord's controversy with the Pharisees on this subject, and that thus this present conflict is not of recent origin but reaches back to the middle of the first century of

in the case of the latter, it may subsequently admit them to the Eucharist in special cases. The State takes no account of the moral conduct of the guilty: the Church of necessity does so. It is only when the provinces of the Church and State are identified that it is possible to maintain a lack of logic in the above conclusions.

the Christian era. Since it will on examination appear obvious that these narratives of one and the same controversy in Matt. xix. 3–9 and Mark x. 2–12 are irreconcilably at variance with each other, it follows that they cannot both be true. It is, therefore, incumbent on us to examine these conflicting narratives[1] in the light of contemporary Jewish history and determine which of the two is historical and to be followed, and which is unhistorical and to be rejected. The Reformed Churches, following Matthew for the most part, allow of divorce in the case of unchastity and also the remarriage of the guiltless, whereas the Roman Church, deriving its views ultimately from Mark, forbids divorce altogether.

The Roman Church, owing to this decision and its invention of artificial impediments to marriage, is landed in hopeless difficulties, as we shall see in the later chapters.

Let us now compare the narratives in the first two Gospels which are so hopelessly at variance on this question.

[1] Augustine (*De Fide et Opp.*, § 19) is partially conscious of the discordance between the two narratives in Matthew and Mark, and regrets profoundly that the Divine directions in this matter are so obscure that it is pardonable to err in carrying them out.

First of all, let us study carefully the narrative as it stands in Matt. xix. 3–9 :

3 And there came unto him Pharisees, tempting him, and saying, Is it lawful for a man to put away his wife for every cause ?
4 And he answered and said, Have ye not read, that he which made them from the beginning made them male and female, and said,
5 For this cause shall a man leave his father and mother and shall cleave to his wife ; and the twain shall become one flesh ?
6 So that they are no more twain, but one flesh. What therefore God hath joined together, let not man put asunder.
7 They say unto him, Why then did Moses command to give a bill of divorcement and to put her away ?
8 He saith unto them, Moses for the hardness of your heart suffered you to put away your wives : but from the beginning it hath not been so.
9 And I say unto you, Whosoever shall put away his wife, except for unchastity,[1] and shall marry another, committeth adultery : and he that marrieth a woman so put away committeth adultery.

[1] That this is the right translation of *πορνεία* and not fornication, see my book, *Teaching of the N.T. on Divorce*, pp. 93–109. *πορνεία* is a generic term for sexual vice : it is used of at least six varieties of such vice, of which fornication is one.

§ 3. *Matt. xix.* 10–12 *are not to be taken in connection with xix.* 3–9. *The former dealt with the general principle of renunciation, which Peter at once applies to the special case of marriage.*

This controversy took place in the open between Christ and the Pharisees. These eight verses ought not to be taken in connection with the three that follow;[1] for the latter are not addressed to the Pharisees but to a different body of hearers, that is, to His own disciples, and they deal also with quite a different subject: not with divorce, but with the larger question of absolute renunciation—the renunciation even of marriage or of any other of God's gifts for the Kingdom of Heaven's sake. Here, as throughout

[1] The words of the disciples in xix. 10–12, as Dr. M'Neile suggests, probably stood originally in quite a different context, "following some utterance on self-denial for the sake of the kingdom of heaven, which might include the renunciation of marriage" (*St. Matthew*, p. 275). Canon Streeter acknowledges that these words are derived from some unknown source (*The Four Gospels*, pp. 166, 178). He is of opinion that they are appropriately added there. This is true in the sense that they state the general principle of renunciation, which principle Peter at once applies to the special case of marriage. Our Lord's reply deals with Peter's special application of the general principle. Peter was a married man. Apparently (Matt. xix. 27; Luke xviii. 28 sq.) Peter had left his wife to follow Christ. Afterwards, however, she rejoined him, and accompanied him on his missionary journeys (1 Cor. ix. 5).

his entire Gospel, Matthew rearranged his materials and brought together discourses[1] uttered on different occasions — the classical examples of which are (*a*) the Sermon on the Mount, which combines in a single whole separate utterances of our Lord which were spoken at very different periods of His ministry; while (*b*) the other is the collection of seven Parables in the thirteenth chapter.

§ 4. *The question put by the Pharisees is authentic in Matthew but unhistorical in Mark—and put in a form impossible for any sane and self-respecting Jew. It was the authentic question that divided the two great schools of Hillel and Shammai, both of which, according to the law of Moses, recognised the right of a man to divorce his wife. These schools differed only as to the grounds on which divorce was legitimate. Philo and Josephus and the vast majority of the Jews belonged to the school of Hillel.*

Before we proceed to the narrative in Mark, let us observe the first and most important point

[1] Hawkins, *Horae Synopticae*[2], 161 sqq.

wherein Matthew and Mark differ. This is in the question which the Pharisees put to our Lord and which Matthew transmits faithfully: "Is it lawful for a man to put away his wife for every cause?" In Mark, on the other hand, this question has been mutilated, and the form in which it has been transmitted is unhistorical and false, "Is it lawful for a man to put away his wife?" which is the same thing as saying, "Is it lawful for a man to put away his wife at all?" This form of the question is, I repeat, unhistorical and false; for no sane or self-respecting Pharisee could have put to our Lord a question so entirely at variance with the Mosaic law, a law which every true Jew regarded as the authoritative utterance of God Himself.

In the next place, I think it is possible to explain why the original question, "Is it lawful for a man to put away his wife for every cause?" was changed into the unhistorical form it assumes in Mark, "Is it lawful for a man to put away his wife (at all)?"

In order to be able to form a valid judgment on this question we must, as I have already said, go back full nineteen hundred years and translate

ourselves into the religious atmosphere of Judaism at the beginning of the Christian era, and study how this very question was regarded by our Lord's Jewish contemporaries. Now from Jewish history we know that the question of divorce was one of the most burning questions that divided the two great Jewish schools of Hillel and Shammai in our Lord's day. Neither school, of course, doubted for a moment the right of the husband to divorce his wife; for this right was, as all agreed, definitely and finally established in the law of Moses. Herein, therefore, these two schools were not at variance. Divorce, both schools held, was absolutely legitimate, and the right to remarry. But these two schools differed widely as to the grounds on which a man might rightly divorce his wife. The school of Shammai maintained that divorce was only legitimate when the wife was guilty of some form of unchastity: the school of Hillel that a man might legitimately divorce his wife for any cause. The controversy between the two schools on this question was based on the conflicting interpretations which they gave of Deut. xxiv. 1–2:

1 When a man taketh a wife, and marrieth her, then it shall be, if she find no favour in

his eyes, because he hath found some unseemly thing[1] in her, that he shall write her a bill of divorcement, and give it in her hand, and send her out of his house.

2 And when she is departed out of his house, she may go and be another man's wife.

Shammai maintained that the "unseemly thing," on the ground of which a man could justly divorce his wife, was actual unchastity.[2] That Shammai's interpretation of this obscure phrase was radically false is clear from the next verse, wherein it is stated that the woman divorced on the authority of this passage could go and forthwith marry another man—a thing absolutely impossible according to the Mosaic law, if the woman were guilty of real unchastity. She was obviously, therefore, not guilty of unchastity but of some minor form of indecency or disobedience. Shammai's interpretation of this passage is now universally rejected by scholars. But if the

[1] ערות דבר. But the Shammaites for some yet undiscovered ground transposed these words and read דבר ערוה. But this change cannot in the least justify the interpretation they gave of this passage. Indeed it does not affect the sense at all.

[2] B.T. *Gittin*, ix. 10, 90*a*; J.T. *Sotah*, i. 1, 16*b*.

interpretation of the school of Shammai was false, the interpretation of Hillel and his school was dangerous in the extreme. From this same passage in Deuteronomy the Hillelites inferred the right of the husband to divorce his wife on any ground whatever, nay, more, to divorce her without assigning any reason whatever in the bill of divorce. It is reported that Hillel committed himself to the extreme statement that a man could justly divorce his wife for burning his food, and that a much later Pharisee, Rabbi Aqiba, maintained that he could divorce her, if he met with another woman who pleased him better. These sayings were no doubt paradoxical, but however paradoxical, they maintain the absolute authority of the husband to divorce his wife on the most trifling grounds.

This brief account enables us to appreciate the serious controversy that lay behind the words in Matt. xix. 3 : " Is it lawful for a man to put away his wife for every cause ? " These words are no passing utterance devised on the spur of the moment to ensnare the young prophet. So far from being such, they give expression to one of the most vehement controversies of the day. In this controversy the contention of the

Hillelites was not only popular with the nation as a whole: it was accepted also by the most eminent Jews of the time. Thus Philo, the greatest Jewish theologian and thinker of that period, who was born about ten or twenty years before the Christian era, accepts the interpretation of the school of Hillel, and without any note of disapproval speaks of a woman being divorced by her husband "on any pretext whatever." [1] Also the greatest Jewish historian that Judaism produced during the two thousand years that followed the close of the Canon, that is, Josephus, who was born in the earlier half of the first century A.D., wrote in his history as follows: "He that desires to be divorced from his wife for any causes whatever [2] . . . let him in writing give assurance that he will have no further intercourse with her." The phrase "for any cause whatever" was, therefore, without question, the shibboleth of the strongest party in Judaism and the controversy itself a burning cause of division between the religious classes of the day.

[1] *De Spec. Leg.* iii. 5 (ii. 304). *ἀνδρὸς ἀπαλλαγεῖσα γυνὴ, καθ' ἣν ἂν τύχῃ πρόφασιν.*

[2] *Ant.* iv. 8. 23. *γυναικὸς δὲ τῆς συνοικούσης βουλόμενος διαζευχθῆναι καθ' ὰς δηποτοῦν αἰτίας κτλ.*

§ 5. *That the question as it appears in Matt. xix. 3 is authentic follows from the fact that the entire controversy was based on Deut. xxiv. 1–2.*

But the final and conclusive argument for the originality of the question as it appears in Matthew is the fact that this controversy was based on the passage in Deut. xxiv. 1–2, which I have already quoted and which authorised divorce on lesser grounds than unchastity, and not on Deut. xxii. 22, which enjoined the penalty of death on those guilty of adultery. Even in Mark, where the narrative has been edited almost out of recognition, this is still clear. In this Gospel the Pharisees are represented as defending their position by the words "Moses suffered (us) to write a bill of divorcement and to put her away" (x. 4), words which are incontestably drawn from Deut. xxiv. 1–2.[1] Even, I repeat, in this much-edited and distorted narrative in Mark these words make it clear that the controversy between our Lord and the Pharisees related to the right of divorce on lesser grounds, with which this passage in Deut. xxiv. 1–2 deals. But it is still clearer in Matthew, where the Pharisees open the debate in words drawn from the slogan of the

[1] Cf. Deut. xxiv. 1: וכתב לה ספר כריתות . . . ושלחה

Hillelites : " Is it lawful for a man to put away his wife for every cause ? " These are the words that echoed up and down Palestine at this period, in every synagogue and in every market-place, and not the wholly unhistorical words recorded in Mark : " Is it lawful for a man to put away his wife (at all)." Further, it is Matthew and not Mark that gives the original form of their appeal to Moses, on which they fall back as their sheet anchor, " Why then did Moses command to give a bill of divorcement and to put her away ? "

We conclude, therefore, that the question as it is put in Matthew : " Is it lawful for a man to put away his wife for every cause ? " is the question that the Pharisees actually put, whereas the question as it is stated in Mark, " Is it lawful for a man to put away his wife (at all) ? " is utterly unhistorical. It is at variance with the whole history of the Jewish controversy of the time : nay, more, it was a question that no sane and loyal member of the Pharisaic party could put ; for the Mosaic law, which, as I have already said, was for the Jew the supreme, final, and unalterable law of God, made such a question impossible.

§ 6. *Mark's narrative contains another misrepresentation of fact in ascribing to Christ the wholly gratuitous and unhistorical statement that the wife was not to divorce the husband. No Jewess could by the law of Moses send her husband a bill of divorcement. She could only desert him and not marry another man till she secured a divorce from the first husband.*

But it is not only the opening clause of Mark's narrative that is unhistorical. It is unhistorical in other respects. First, it contains another gross misstatement of fact; secondly, it assigns to the Pharisees words which were uttered by Christ, and assigns to Christ words which were used by the Pharisees.

Let us take the misrepresentation of fact first. In the closing words of this narrative, Mark ascribes the following words to our Lord: "Whosoever shall put away his wife, and marry another, committeth adultery against her: and if she herself shall put away (ἀπολύσασα) her husband and marry another, she committeth adultery" (Mark x. 12). This statement would have been incomprehensible to a Jew in the time of our Lord; for no Jewish woman had ever

been allowed by the law of Moses to divorce (*ἀπολύειν*) her husband,[1] and over one thousand years had to elapse after this interview between our Lord and the Pharisees, before under Jewish law the husband's right to divorce his wife at will was abolished. St. Paul (1 Cor. vii. 10–11), writing about five years earlier than Mark, reproduces faithfully, as Mark does not, the words of Christ: "But unto the married I give charge, yet not I, but the Lord, that the wife do not desert her husband, and that the husband do not divorce his wife." The Jewish wife could "desert" but not divorce her husband.

[1] In the Responsa Asheri xlii. 1 (quoted in the *Jewish Encyc.*, iv. 625), the substance of the famous decree of Rabbi Gershon of Mainz in the eleventh century A.D., which set the wife on an equality with her husband in certain respects, is given as follows: "'To assimilate the right of the woman to the right of the man, it is decreed that even as the man does not put away his wife except of his own free will, so shall the woman not be put away except by her own consent.' Where either of the parties, however, shows good cause for divorce the marriage will be dissolved against the will of the guilty party (Shulhan 'Aruk, Eben ha 'Ezer, 119, 6, gloss)."

In the Mishna, indeed, the wife was allowed to demand a bill of divorce from her husband, though she could not herself give the bill of divorce, on the following grounds: refusal of conjugal rights (Keth. v. 6), impotence (Ned. xi. 12), leprosy (Keth. vii. 9), etc. In no case during N.T. or Talmudic times could the wife "put away" (*ἀπολύειν*) her husband. However deeply wronged, all that she could do was to prevail upon her husband "to put" her "away," *i.e.*, to give her a *get*—a bill of divorce.

§ 7. *Salome and Herodias acted in contravention to the law of Moses and the entire usages of the Jews in divorcing and deserting their respective husbands to marry others.*

Some scholars, indeed, have supported this clause in Mark on the ground that it refers to an actual breach of the Jewish law by two daughters of the house of Herod. It is true, indeed, that two daughters of this house set the law of Moses and the immemorial custom of Israel at defiance. One of these women, Salome, divorced her husband, the other, Herodias, deserted her husband, in order to contract fresh marriages. But, so far as they did so, they severed their connection with the Jewish faith. Moreover, no Jew ever sought to justify their conduct. Josephus condemns the act of the elder [1] as a breach of Jewish law, and charges the younger with de-

[1] *Ant.* xv. 7. 10: "Salome . . . sent him a bill of divorce and dissolved her marriage with him contrary to the laws of the Jews" (*πέμπει . . . αὐτῷ γραμμάτιον ἀπολυομένη τὸν γάμον οὐ κατὰ τοὺς Ἰουδαίων νόμους*).

According to Josephus (*Ant.* xviii. 5. 4) Herodias first married her half-uncle Herod, who is called, possibly erroneously, Philip in Mark vi. 17, Matt. xviii. 3 sqq. Herodias had a daughter Salome, who was married to Philip the Tetrarch. It is impossible to explain satisfactorily the complicated intermarriages of Herod's family. Next, Herodias married her uncle Herod Antipas, who was half-brother to her first husband.

liberately reducing to confusion the laws of her country. These two breaches of Jewish law were never quoted then or in Talmudic times as precedents for like illegalities. It is, therefore, astonishing that any scholar should attempt to defend the words of Mark by making them refer to the utterly lawless acts of two shameless and abandoned women. And yet it has been suggested that these words, which Mark attributes to our Lord, were a *bona fide* reference to Herodias. But there is still another objection to this wrong interpretation of the text. The words in Mark are "if a woman divorce her husband and marry another." But Herodias did not, as these few scholars assume, "divorce" her husband Philip: she simply "deserted" him when on a visit to Rome and married her brother-in-law Herod, who was her uncle, in the lifetime of her husband. John the Baptist denounces this union of Herodias and Herod. "It is not," he declared, "lawful for thee to have thy brother's wife" (Mark vi. 18; Matt. xiv. 4). But even John's denunciation of Herod's so-called marriage was not based on the ground that Herodias had deserted her husband, but that she had married another man when her first husband was still living. We may

go still further and say that John denounced Herodias because she had married the brother of her husband, a marriage absolutely inadmissible by the Mosaic law, unless the brother had died leaving no children. In that case the surviving brother could marry the widow to raise up children to his brother. But Herodias had borne a child to Philip. Hence her marriage with Herod was wholly illegal. Even if Philip had been already dead when Herodias married Herod, the marriage would still have been an abomination in the eyes of the Jews. This comes out very clearly in the case of Archelaus, whose marriage with the widow of his brother Alexander is denounced by Josephus (*Ant.* xvii. 13. 1) as being detestable to the Jews, seeing that she had borne children to Alexander (xvii. 1, 2).

§ 8. *A true logion or saying of Christ preserved in* 1 *Cor. vii.* 10–11. *The wife could desert but not divorce her husband.*

Let us contrast this wholly untrustworthy clause in Mark with the saying preserved by Paul (1 Cor. vii. 10–11) : " But unto the married I give charge, yet not I, but the Lord, that the wife do not desert her husband and that the

husband do not divorce his wife." Here we have a true logion, a true saying of our Lord. A Jewish woman could in those days desert but she could not divorce her husband. And even when she deserted her husband, she could not marry another man unless the husband, whom she had deserted, divorced her. Besides it would have been a wholly gratuitous action on our Lord's part to condemn a woman for divorcing her husband—an action which no Jew recognised as admissible—and to put this wholly superfluous condemnation on the same level as His denunciation of the actual law of Moses, which allowed Jewish husbands to divorce their wives—not for unchastity but for some minor act of indecency falling far short of unchastity.

Neither, therefore, from the standpoint of the Pauline teaching, nor of Jewish law nor Jewish history, is it possible to defend this clause in Mark, which forbids a wife to divorce her husband. It is an obvious interpolation, and an interpolation conveying a misrepresentation on the part of some unknown transmitter of the narrative.

§ 9. *The disordered text of Mark compared with the clear and logical order of Matthew. The*

former untrustworthy from start to finish. Authenticity of Matt. xix. 9 confirmed by Luke xvi. 18. (See footnote, p. 26 sq.)

But the evidence against the authenticity of this clause in Mark is not yet exhausted. In Luke xvi. 18 we find a parallel to Matt. xix. 9 and Mark x. 11–12. With which of the two Gospels does Luke agree? Beyond the possibility of question Luke agrees with Matthew against Mark. Thus there is not a single reference in Luke to a woman divorcing her husband, and inasmuch as Luke as a pupil of Paul, the Apostle of the Gentiles, was writing for the whole Greek and Roman worlds, *which allowed wives to divorce their husbands, the withholding of such a clause* as that in Mark would, if it had come originally from our Lord, have been not only unintelligible in Luke's Gospel, which was written for the Gentiles, but also an act of sheer intellectual dishonesty on his part. Thus here again the Matthew account is supported by Luke.[1]

We have now shown that the two most important clauses bearing on this controversy in

[1] See note on p. 26 sq. where it is shown that, so far as Luke records our Lord's words, he supports the text of Matt. v. 32, xix. 9.

Mark are unhistorical. But we have not yet exhausted Mark's inaccuracies.

To the unhistorical question in Mark, "Is it lawful for a man to put away his wife?" the most natural and adequate reply would have been, as we find it is Matthew's narrative, the quotation from Gen. ii. 24. Instead of that, Mark represents our Lord as weakly asking, "What did Moses command you?"—a question which at once suggested the very passage in Deut. xxiv. 1–2, where divorce on inadequate grounds is allowed. Of this suggestion the Pharisees at once avail themselves, but in a fashion at once feeble and likewise incredible; for the hostility of the Pharisees to Christ, which at this period was approaching its climax, was inevitably driving them to make the strongest rejoinder that their case would admit of. Yet Mark represents them as tamely replying in an apparently chastened mood, "Moses suffered us to write a bill of divorcement and to put her away." Whereupon our Lord quotes Gen. ii. 24, and in doing so omits a clause most pertinent to His argument.[1] Here the quotation from

[1] See my *Teaching of the N.T. on Divorce*, p. 64, where attention is drawn to the fact that Mark (ℵ B Syr. vr.) omits καὶ κολληθήσεται τῇ

Genesis, which in Matthew is put first and raises the whole controversy from the standpoint of a mere casuistical debate to a discussion on a high spiritual level, is relegated to the close. Thus the entire narrative in Mark is false in its statements of fact and hopelessly feeble in its style. With this untrustworthy record let us contrast the historical narrative in Matthew. In answer to the question, "Is it lawful to put away a wife for every cause?" our Lord quoted at the outset Gen. ii. 24, "Have ye not read, that he which made them from the beginning made them male and female and said, For this cause shall a man leave father and mother and shall cleave to his wife, and the twain shall become one flesh?" Thereupon the Pharisees rejoin: "Why then did Moses command to give a bill of divorcement and to put her away?" Christ saith unto them: "Moses (did not command you but) for the hardness of your hearts he suffered you to put away your wives; but from the beginning it was not so. And I say unto you, Whosoever shall put away his wife except for

γυναικὶ αὐτοῦ "and shall cleave unto his wife." This clause is not omitted in 1 Cor. vi. 16*a*, where the Pauline words ὁ κολλώμενος τῇ πόρνῃ ἓν σῶμά ἐστιν is clearly an echo of Gen. ii. 24 (LXX) καὶ προσκολληθήσεται τῇ γυναικὶ αὐτοῦ, through Q's account.

unchastity and shall marry another, committeth adultery; and he that marrieth a woman so put away committeth adultery."

Here save for the insertion of a single gloss we have a really trustworthy record of the famous controversy, the subject of which was, "Is it lawful for a man to put away his wife for every cause?"

Elsewhere in the first three Gospels[1] quotations are made from the original narrative, which was preserved most probably in the source called Q,

[1] Luke refers to this subject, only in xvi. 18. Though he omits the context in which it occurs, the words he quotes *agree with Matthew and not with Mark*. The words are: "Every one that putteth away his wife and marrieth another committeth adultery: and he that marrieth a woman so put away from a husband committeth adultery." These words are an excerpt from the original narrative as it stood in Q. They agree almost verbally with Matt. xix. 9, and support Matt. xix. 9 against Mark x. 12. They might suggest that the clause "except for unchastity" did not stand in Q, but was a deliberate addition of the Evangelist in order to demolish the false conclusions that the narrative in Mark naturally gave rise to. But it appears to have stood in Q. See end of this note.

From the four texts of Mark, Matthew (two), and Luke, which I add here, it is clear that Luke agrees with Matthew and gives no support to the Marcan interpolation regarding a woman divorcing her husband (x. 12).

Mark x. 11–12.	Matt. xix. 9.
ὃς ἂν ἀπολύσῃ τὴν γυναῖκα αὐτοῦ καὶ γαμήσῃ ἄλλην, μοιχᾶται ἐπ' αὐτήν. καὶ ἐὰν αὐτὴ ἀπολύσασα τὸν ἄνδρα αὐτῆς γαμήσῃ ἄλλον, μοιχᾶται.	ὃς ἂν ἀπολύσῃ τὴν γυναῖκα αὐτοῦ [μὴ ἐπὶ πορνείᾳ] καὶ γαμήσῃ ἄλλην μοιχᾶται, καὶ ὁ ἀπολελυμένην γαμήσας μοιχᾶται.

and which, with the exception of this one explanatory gloss, is faithfully reproduced in Matthew. In Mark, on the other hand, it is untrustworthy from start to finish: the subject of the controversy is fundamentally misstated, and unhistorical elements are introduced. On a document so untrustworthy it is of course suicidal to build an argument, and yet it is from Mark's narrative that ecclesiastics have drawn the conclusion that marriage is indissoluble, and *on the basis of this narrative have forcibly wrested into agreement with this false conclusion every other statement of our Lord on this question.*

Luke xvi. 18.	Matt. v. 32.
πᾶς ὁ ἀπολύων τὴν γυναῖκα αὐτοῦ καὶ γαμῶν ἑτέραν μοιχεύει, καὶ ὁ ἀπολελυμένην ἀπὸ ἀνδρὸς γαμῶν μοιχεύει.	πᾶς ὁ ἀπολύων τὴν γυναῖκα αὐτοῦ [παρεκτὸς λόγου πορνείας] ποιεῖ μοιχευθῆναι, καὶ ὃς ἐὰν ἀπολελυμένην γαμήσῃ, μοιχᾶται.

It is remarkable that the first six words in Luke are identical with those in Matt. v. 32, and that seven of the last nine words in Luke verbally agree with the last seven in Matt. xix. 9, save that Luke uses μοιχεύειν (the more classical word) instead of μοιχᾶσθαι, and ἑτέραν which he prefers to ἄλλην. Thus Luke has drawn more than six-sevenths of his words from the same sources that Matthew did. Luke supports, so far as he records the narrative, the text in Matthew and not that in Mark. Since παρεκτός is a rare word and does not apparently belong to Matthew's vocabulary, the gloss in Matt. v. 32 may go back to another and independent rendering of Q, whereas the gloss in xix. 9, where μή takes the place of παρεκτός, is probably a gloss of the later editor of Matthew. On this hypothesis the gloss in Matt. 32 goes back to some form of Q. It is illogical in v. 32 but not in xix. 9.

§ 10. *Gloss in Matthew.*

And yet, as we have stated, there is one addition in the narrative of Matthew. But this addition of the Evangelist is of the nature of an explanation—an explanation, however, which does not change the original teaching of Christ into a thing entirely different, but aims at preserving its true meaning for later generations that had lost touch with the controversies that were rife in the time of Christ. The addition of the Evangelist consists simply of the words "except for unchastity." The ordinary rendering of these words "except for fornication" is misleading, and in fact wrong.[1] Now the Evangelist attaches great importance to this addition, for he inserts it in the only two passages where this subject is dealt with in the First Gospel, namely, here and in the Sermon on the

[1] In the same passages not infrequently πορνεία and μοιχεία are used as equivalent terms. See my *Teaching of the N.T. on Divorce*, vi. 93–109. It is necessary to call attention to this fact, seeing that many scholars are unaware that πορνεία is a generic term in Ecclesiastic Greek and may be used of six different kinds of sexual vice. In Classical Greek it has the ordinary meaning of illicit intercourse with an unmarried woman: but it is also used to denote sodomy and harlotry on the part of a married or unmarried woman. Liddell and Scott's *Greek Lexicon* takes no notice of this fact, but the new edition will do full justice to recent research on this question.

Mount (Matt. v. 32) where we have a fragment of this narrative in slightly different words.

§ 11. *Matt. v. 32, which supports xix. 3, is conclusive that the narrative relates to the lesser grounds on which divorce was held to be justifiable and not to adultery.*

The words in the Sermon on the Mount (Matt. v. 32) are conclusive as to the Evangelist's view on this question apart from this gloss. They are: "Every one that putteth away his wife, saving for the cause of unchastity, maketh her an adulteress: and whosoever shall marry her when she is put away committeth adultery." Here the Evangelist, by the addition of this gloss, enforces the teaching of Christ, though it must be confessed that he does so at the cost of its logic. The gloss is wholly needless; for apart from this gloss the words can only be interpreted of a woman who is divorced on some ground less than adultery. For it stands to reason that, if the wife had already been guilty of adultery, her divorce *could not make her an adulteress*, seeing that as a matter of fact she was that already. But, by divorcing her on some inadequate ground less than adultery, her husband makes her that which she

had not been before, namely, an adulteress. For the presumption here is that she would marry again, as the law of Moses allowed her. And, though before guiltless of adultery, by marriage with another man she becomes an adulteress; for she is still the wife of her first husband.

Thus this verse in the Sermon on the Mount necessarily presupposes that the question put to our Lord was, "Is it lawful for a man to put away his wife for every cause?" The inevitable conclusion to be drawn from the authentic record of this controversy is that our Lord denounced the law of Moses in Deut. xxiv. 1–2 as immoral, which allowed a man to divorce his wife on inadequate grounds. No other grounds are here considered.

§ 12. *Matthew deliberately rejected the narrative in Mark and sought to replace it by a true record of the controversy. The Second Evangelist's aim was to prove that marriage was indissoluble, the aim of the First to show clearly that this was not the teaching of Christ.*

Summary of conclusions.

In the present book it is my aim to show that Matthew deliberately rejected the narrative in Mark as unhistorical. My claim, therefore, is

that I am reviving the attempt of the First Evangelist to displace the unhistorical narrative in the Second Evangelist by the true record of that controversy which is given by the First Evangelist. The aim of the Second Evangelist is clearly to prove that, according to the teaching of Christ, marriage is absolutely indissoluble. The aim of the First Evangelist is just as clearly to prove the contrary under certain conditions.

The easiest means of exposing the aim of the falsifier of the text is to bring together the two following clauses in Mark x. 2 and x. 11. Thus after x. 2, "Is it lawful for a man to put away (ἀπολῦσαι) his wife (at all)?"—a question which in itself presupposes that the subject of the controversy is the indissolubility of marriage—let x. 11 be read immediately: "Whosoever putteth away (ἀπολύσῃ) his wife and marrieth another committeth adultery against her." This collocation of the two verses makes it clear that an aim of the falsifier of the text was to prove that marriage was indissoluble under all circumstances.

To sum up the conclusions already arrived at, Mark's narrative is unauthentic as to the form of the question in x. 2 (§ 4) and our Lord's words in x. 12 (§§ 6, 8), not to speak of other inaccuracies.

Matt. xix. 3 gives the authentic form of the question (§ 4), *i.e.* "Is it lawful for a man to put away his wife for every cause?", and xix. 9 must be interpreted in connection with it. That this is the true interpretation of xix. 9 is proved by Matt. v. 32, which obviously relates to the same controversy and which admits of only one interpretation—that the wife has been divorced on lesser grounds than unchastity (§ 11): cf. p. 49.

Again, though Luke xvi. 18, when standing alone and severed from its context, could be taken as declaring the indissolubility of marriage, yet since its original context has been preserved (see footnote, pp. 26–27) by both Matthew and Mark (in the latter in an unhistoric form), it follows that Luke xvi. 18 should be interpreted in accordance with this context as referring to a woman divorced on inadequate grounds.

Again, the same conclusion follows from the fact that the entire controversy was based on Deut. xxiv. 1–2 (§ 5): see p. 47.

Finally, Matthew deliberately rejected the Marcan narrative as unhistorical and replaced it with a record that is substantiated by all contemporary history (§ 12).

CHAPTER II

THE NEW TESTAMENT DOCTRINE OF DIVORCE

§ 1. *Short summary of Chapter I.: the controversy of which an authentic record is given in Matthew and in Luke, so far as the latter records it, was based on Deut. xxiv. 1–2, and therefore took account only of lesser grounds for divorce than adultery. Mark's narrative is herein unhistorical and rewritten to prove that marriage is indissoluble. This dogma is therefore a human fiction founded on an unhistorical record.*

We have now examined the teaching of the first three Gospels on the controversy between our Lord and the Pharisees on the question of divorce. We have found that this controversy was based on Deut. xxiv. 1–2, which takes no account of adultery, but only of some lesser offence, as the ground of divorce, and that Luke

so far as he takes account of the controversy upholds the text by Matthew against Mark.

We have further found that the narrative in Mark stands alone and is unhistorical, being obviously rewritten to prove a dogma, which the true history of the facts could not in any respect justify. Seeing, therefore, that the idea that marriage was indissoluble, however grave might be the unfaithfulness of either spouse, was derived from the narrative in Mark, and that Mark is untrustworthy and unhistorical in this respect, it follows that there is no evidence in the Gospels of any kind to prove that marriage is indissoluble, when there is an essential breach of the marriage vows.

This dogma that marriage is indissoluble is, therefore, a human fiction founded on an unhistorical basis.

§ 2. *The Roman dogma of nullity is derived from the combination of this false dogma of the indissolubility of marriage with a series of fantastic impediments devised by the Mediæval Church to a valid marriage.*

But this is not all. When this fiction was linked up with the numerous fantastic impedi-

ments which the Mediæval Church devised to a valid marriage, it gave birth to the extraordinary dogma of nullity which is the peculiar property of the Roman Church, and which in the hands of the Roman Curia has been the source of intolerable moral scandals during the past six hundred years as well as of a large revenue.[1] There is undoubtedly a reasonable and indisputable doctrine of nullity, such as our Supreme Courts of Justice recognise, but it has nothing in

[1] This revenue has varied naturally according to the nature of the cases and the characters of the Popes. Within the last fifty years the cost of procuring a decree of nullity or a dispensation has varied from the modest fee of seven dollars in French Canada to £4000 in the case of the prince who in 1888 was allowed by the Vatican to marry his niece. Lord Acton (*Historical Essays and Studies*, p. 76 sq.) observes that marriage dispensations "became by careful management productive sources of revenue." Thus for declaring Louis XII.'s marriage null and void the Pope secured for his son "a French principality, a French wife, and a French army, wherewith to conquer the Romagna," and for rendering a kindred service to Ladislaus of Hungary he "earned 25,000 ducats."

What Pope Martin v. received for recognising the validity of the marriage of an important personage, who first seduced one of two sisters, and then married the other, is not told. But the incident itself is recorded in the annotations on Leviticus xviii. in the second edition of the Douai Bible. The ground for the Pope's action is there admitted to be the great scandal that would be caused by the separation of the two, since "the pretended marriage" was public and the impediment unknown to the public. Dispensations were granted after as well as previously to marriage.

common with the lawless and immoral dogma of Rome.

§ 3. *Some reasons for the unhistorical character of Mark xii. 3–12. Mark, who had neither heard nor seen our Lord, was, according to Papias, indebted to the instructions of Peter. Peter was timid, apt to yield to the influence of his immediate environment (Gal. ii. 11), and accustomed (according to Papias) to adapt his instructions to the needs of his hearers. Peter may, therefore, have been answerable in some degree for the changes in the narrative but not for the wholesale perversion it has undergone. If some of these are due to Mark, he was, we may conclude, unconscious that he was therein falsifying the teaching of Christ. The chief offender, therefore, is unknown. The false narrative in Mark led to the misinterpretation of every other passage in the Gospels and Epistles bearing on the question of marriage.*

But before we proceed further, it is my duty to give some reasons for the unhistorical form that the narrative has assumed in Mark. To this task let us now address ourselves. First of all, it is acknowledged by the foremost scholars on the

N.T. that Mark is the oldest Gospel, that it was written in Rome, and that it may be assigned at the earliest to the year 60 A.D., and that it forms the chief of the several sources of the First and Third Gospels.

The immediate author was Mark. If we follow the tradition of the second century A.D. we learn from Papias that Mark was not himself a hearer of our Lord but that he was indebted for the subject-matter of his Gospel to the instructions of Peter, which "instructions" Papias declares Peter "adapted to the needs of his hearers."[1] Papias emphasises the accuracy of Mark, but he also says that he "wrote down some things as he remembered them."[2] This tradition was maintained by Justin Martyr, Irenæus, Clement of Alexandria, Jerome, and Athanasius.

According, therefore, to the most ancient tradition of the Church, Peter is the authority behind Mark, but we are unable to determine where Peter is solely responsible, and where Mark is.[3] Now it is generally acknowledged that the

[1] *πρὸς τὰς χρείας ἐποιεῖτο τὰς διδασκαλίας.* Eusebius, *Hist. Eccles.* iii. 39.

[2] *ἕνια γράψας ὡς ἀπεμνημόνευσεν. Op. cit.*, iii. 39.

[3] See Hawkins and Streeter, *Oxford Studies in the Synoptic Problem*, pp. 169–170.

Second Gospel is, on the whole, a faithful record, but no scholar would maintain that it is free from certain misconceptions, misrepresentations, and mistakes. The bulk of these, however, have to do with trivialities.[1] But the account of this controversy on divorce between the Pharisees and our Lord is not of this nature. It deals with a doctrine of primary importance. Who was answerable for this mutilated and falsified account? Was it Peter, who was not, as we know from the Gospels, always trustworthy in his statements; and who, according to the Epistle to the Galatians, was timid and was apt to yield to the influences around him, and of whom, just a few years before Mark was composed, St. Paul wrote thus (Gal. ii. 11): "But when Peter was come to Antioch, I withstood him to the face because he stood condemned. For before that certain came from James, he did eat with the Gentiles: but when they came he drew back

[1] See E. A. Abbott, *The Corrections of Mark adopted by Matthew and Luke.* It is noteworthy that Sir W. Flinders Petrie in his *Growth of the Gospels*[2], 1911, p. 88, writes: "In general, when comparing the versions, we find that Matthew has a more probable text than that of Mark. . . . This evidence . . . is not only given to show that verbal criticism cannot prove that Mark has the earlier text and that Matthew has modified it." See also Streeter, *The Four Gospels*, p. 211: "Luke tends to prefer the non-Marcan to the Marcan version."

and separated himself, fearing them of the circumcision. And the rest of the Jews dissembled with him." Now we must ask: Is part of this untrustworthy narrative to be attributed to Peter, who, as Papias declared, "adapted his instructions to the needs of his hearers"—a statement which in itself carries with it no condemnation, but when taken with the words just quoted from Galatians may? or are we to attribute it to Mark who, as Papias also declares, "wrote down some things as he remembered them"? The Gospel of Mark, we know, was written in Rome, and one unhistorical statement in it can be adequately explained from this fact: the statement, namely, which represents our Lord as forbidding a wife to divorce her husband. Now our Lord could not have made such a gratuitous and foolish statement in Palestine to Jews; for no Jewish woman could divorce her husband by the law of Moses; and later, should she seek to be divorced, she had to appeal to the Jewish Court of Law. If this Court decided in her favour, her husband was compelled to give her a *get*, *i.e.* a bill of divorce. No Jewess could give her husband such a bill. But in Rome the case was otherwise. Roman women were, by

the *Lex Julia*, granted the right of divorcing their husbands, and they undoubtedly availed themselves of this law. Accordingly, in order to adapt the teaching of our Lord to its new environment in Rome, either Peter, or Mark, or some other authority, attributed to our Lord this unhistorical command, which forbade women to divorce their husbands.[1] To students of history this adaptation of sayings and principles to new environments is a commonplace experience.[2]

But which of the two authorities behind the Second Gospel is answerable for the total transformation of the first question of the Pharisees: "Is it lawful for a man to put away a wife for every cause?" into the question, "Is it lawful for a man to put away his wife (at all)?" The change here is not merely an historical adaptation of an old principle to a new environment as is that of the case just dealt with. It is not only

[1] In Matt. xv. 24 we find in the story of the Syro-Phœnician woman the words, "I am not sent but to the lost sheep of the house of Israel." Is Mark's omission of this clause due to his wish to adapt the Gospel to his heathen readers in Rome? They should occur if original after Mark vii. 26. The words in vii. 27 are as severe, but they do not expressly mention Israel to the hurt of the Gentiles.

[2] See footnote on p. 27, where it is shown that Luke supports Matthew against Mark.

unhistorical in itself: it is worse, for it inevitably led to the recasting of the teaching of the entire narrative, and, because its new and perverted teaching was so definite, it led likewise to the misinterpretation of all the other passages in the N.T. which deal with the question of marriage. Such a wholesale perversion of the narrative cannot be attributed to Peter. If we assign it to Mark, who had no first-hand knowledge of the life and teaching of our Lord, then Mark, we may reasonably conclude, was unconscious that in the version he gave he had falsified the teaching of Christ.

§ 4. *The reviser of Matthew used Mark and incorporated in the enlarged Matthew nine-tenths of the subject-matter of Mark and about half the actual words used by Mark. He constantly corrected Mark and unquestionably rejected Mark x.* 2–12 *as unhistorical and replaced it by the narrative he found most probably in Q. But his attempt was only successful in the Eastern Church, which never accepted the Marcan views. But, in the West, Mark's views prevailed till the Reformation, when at last the true doctrine as set forth by*

Matthew and Luke and Paul came into its own, save in the Roman Church.

Now in its present form Matthew was written about twenty-five years later than Mark. The reviser and enlarger of the primitive Matthew had Mark's Gospel before him, and incorporated in the enlarged Matthew about nine-tenths of the subject-matter of Mark in language very largely identical with that of Mark: indeed, in so doing, he took over into the First Gospel over half the actual words used by Mark.[1]

With these facts before us we cannot evade the conclusion that the reviser of Matthew *deliberately* rejected the Marcan version of this controversy,[2] and replaced it by the narrative which he derived in all probability from Q, and which, as we have found, stands every test to which it can be subjected from textual criticism, from contemporary history and Jewish tradition. The reviser of Matthew, whom we shall call the First Evangelist, regards the account in Mark as a misrepresentation of fact, and, what is more

[1] Streeter, *The Four Gospels*, pp. 151, 159.

[2] See Streeter, *op. cit.*, p. 159 sq., for a list of passages where Luke "deliberately substitutes a non-Marcan for the Marcan version of a story or piece of teaching." These are "substantially different from those in Mark."

to our present purpose, a total misrepresentation of the teaching of Christ.

In this and the previous chapter it has been my duty to undertake afresh the task of the First Evangelist, and to prove on textual and historical grounds that Mark's account of this controversy is untrustworthy and misleading. In showing the untrustworthiness of this narrative I am, as I have said, but resuming the task which was undertaken by the First Evangelist, and wherein he was successful for a time. But the Church in the West early committed itself to the erroneous narrative in Mark and concluded from it that marriage was indissoluble. The Eastern Church never accepted this conclusion. But in the West it was otherwise, and it was not till the Reformation that scholars outside the Roman Church recognised, or rather, let me say, felt that the narrative in Matthew was authentic, though they had not as yet learnt the grounds, historical and textual, on which Mark's narrative must be rejected. But they felt—and rightly felt—that the Matthew account was trustworthy, and concluded therefrom that the tie of marriage was dissolved by the disloyalty of one or of both of the parties. I have said that

scholars outside the Roman Church at the Reformation drew the above conclusions, but I should add that the greatest scholar of the Roman Church at that period, namely, Erasmus, drew deliberately the same conclusions as the Reformers, notwithstanding all the traditions of his Church and the influence of the Popes who were his personal friends.

§ 5. *But owing to the doctrine of the plenary inspiration of Scripture, no definitive conclusion could be arrived at. If the Reformers claimed the authority of Matthew and Paul, the Roman Church claimed that of Mark. Hence, till the rise of Biblical criticism, the question in debate could not be settled definitively. The trustworthiness of the Matthew narrative over against that of Mark can be established alike from the other New Testament books and all the known contemporary history of the time.*

Thus the Christian world in the West came to be divided afresh on this question in the sixteenth century as it had been in the first, and there was no means of settling this controversy, since both the opposing Churches clung to the doctrine of an infallibly inspired

book, and accordingly no such thing as the higher criticism of the Bible was then possible. And yet without such criticism no valid and definitive conclusion could be reached. But, since in these later days the Gospels have been submitted to the most drastic criticism, this impasse no longer exists. By this criticism it is possible to determine which of the two narratives is historical and which is unhistorical, and to state the grounds of this conclusion in such clear terms as will make it possible for every person of ordinary intelligence and intellectual honesty to recognise the true and authentic character of the Matthew narrative and the unhistorical character of the Marcan. This I have already done at some length in the first chapter and in the earlier part of the present. But the criticism is not yet complete. Let me summarise the conclusions already arrived at, and then proceed.

From whatever standpoint we have compared the narratives in Matthew and Mark, the trustworthiness of the Matthew narrative manifests itself as unassailable, alike from the standpoint of the other books of the N.T. and from all the known contemporary history of the time. The

words "except for unchastity" are indeed a gloss, but a gloss the aim of which is to enforce the original teaching of Christ. The narrative in Mark, on the other hand, is in part defective, in part injuriously interpolated, while, in what remains, the words of Christ are in one case attributed to the Pharisees,[1] and those of the Pharisees to Christ, and the order of the replies altered to the complete detriment of the original narrative. All these recastings of the text can hardly have been accidental; for they alter radically the words of Christ and make them teach what they were never designed to teach, namely, that marriage is indissoluble.

§ 6. *Further examination of Matt. xix.* 3–9, *which, starting with the historical question, "Is it lawful for a man to divorce his wife for every cause?", proves that Deut. xxiv.* 1–2 *is presupposed throughout, which recognises divorce as optional and justifiable on lesser*

[1] The words of the Pharisees in their rejoinder to Christ in which they claim the law of Moses as a command in their favour (Matt. xix. 7*a*) are in Mark x. 3 transferred to Christ, where in the form, "What did Moses command you," they suggest the very passage that justifies divorce on adequate grounds, *i.e.* Deut. xxiv. 1–2, and so give away the case at the outset. See Chapter I., pp. 15 sq., 24.

grounds than adultery, and not Deut. xxii. 22 and Lev. xx. 10, which enforced not merely divorce but the death of the adulteress. The narrative in Matt. xix. 3–9 confirmed irrefutably by Matt. v. 32.

Hence in the first three Gospels Christ deals only with the question of divorce on inadequate grounds, and condemns unreservedly divorce on such grounds in that it conflicts with the primary principle in marriage—the union of two beings in one.

Let us now turn aside from this unhistorical document in Mark, and ask what our Lord, according to Matthew, did teach on this burning question. The Pharisees, voicing the thoughts of almost the entire nation, asked this question and no other : " Is it lawful for a man to divorce his wife for every cause ? " Here let us again emphasise the following fact. The words " for every cause," which go back to Deut. xxiv. 1–2, did not refer to unchastity. Quite a different law of Moses dealt with unchastity, *i.e.* Deut. xxii. 22 and Lev. xx. 10.[1] This other law con-

[1] Even the rest of the edited Marcan narrative, apart from the two unhistorical clauses in x. 2, 11, presupposes Deut. xxiv. 1–2 and not Deut. xxii. 22 or Lev. xx. 10.

demned in unmistakable terms the adulteress to death. This severe law remained without doubt on the statute book till our Lord's day or later, as we know from the section about the woman taken in the act of adultery in the Fourth Gospel, but it had long become obsolete like many of our own laws. For two or perhaps several generations a milder penalty had been inflicted on the adulteress by the Jewish tribunals, but that penalty was inflicted ruthlessly. Even if the husband wished to forgive his adulterous wife, he was not permitted to do so: he was absolutely compelled to divorce her. Divorce in the case of adultery was thus compulsory according to the Jewish law in our Lord's day. But the controversy between the Pharisees and our Lord, which is recounted in Matthew and Mark, did not deal with *compulsory* but with *optional* divorce—that is, divorce for lesser grounds than adultery. It dealt with the question of divorce on inadequate grounds.

The law of divorce on the ground of adultery was not optional in Judaism: it was obligatory. It was the universal law of Judaism. Our Lord's words, in Matthew and Mark, therefore, refer to less grievous offences.

Matt. xix. 3–9 confirmed by v. 32

The evidence so far is both adequate and unanswerable, but, if further evidence were needed, it is provided by the other form, in which our Lord's words are given in the Sermon on the Mount (Matt. v. 32), which makes this conclusion irrefutable. I have already quoted these words, but I cannot quote them too often, since they are in themselves decisive on this question. These words are, "Every one that putteth away his wife [saving for the cause of unchastity] maketh her an adulteress." The gloss here is not only unnecessary, as we have already shown: it is illogical. But leaving the gloss aside, it is clear that the wife in question has not been guilty of adultery; but that the husband, by divorcing her on some inadequate ground, has driven her into marriage with some other man and so made her an adulteress. This controversy, therefore, did not deal with the question of adultery at all, and the persons condemned by our Lord in connection with this controversy are those who divorced their wives on inadequate grounds.

§ 7. *The first three Gospels recount or refer to Christ's controversy with the Pharisees about the legitimacy of divorce only on lesser grounds*

than adultery, but the Fourth Gospel preserves in viii. 3–11 a record of quite a different controversy between the Pharisees and Christ, which relates to adultery and the penalty that should follow on this offence. In this controversy Christ does not even question the justice of contemporary Jewish law, which required the absolute and irreversible divorce of the adulterous wife.

In the teaching of Christ, then, so far as it is correctly recorded in the first three Gospels, the question of divorce on the ground of adultery is not dealt with at all but only of divorce "for any or every cause," and herein Christ breaks absolutely with the Mosaic law. But, and let us give this fact its full due, in the Fourth Gospel we have a trustworthy record in chapter viii. 3–11 of quite a different controversy between the Scribes and Pharisees and our Lord, and this controversy does relate to actual adultery and the penalty that should follow on this offence. The Scribes and Pharisees, as we remember, brought before our Lord a woman taken in the act of adultery. Their object in so doing was dictated neither

by love of chastity in women, nor even of abstract justice. It was simply to place our Lord in a dilemma. For, if, on the one hand, our Lord had affirmed the validity of the severe Mosaic law which enforced the death of the adulteress, He would thereby have made a declaration of war against Roman law and Roman authority, and incurred the inevitable penalties of such an offence.

But, if, on the other hand, He had set aside the Mosaic law in favour of that of their Gentile rulers, He would have lost the favour of the common people and adopted a position in no small degree injurious to His Messianic claims. Whether or not the woman had already been tried and divorced by the Jewish authorities has been discussed by scholars, but, whatever their conclusion may be, it does not affect the question. Since the fact of the woman's guilt was undisputed, *the sentence of divorce by contemporary Jewish law was inevitable, and to this sentence our Lord raises no objection and even makes no reference.*

The Mosaic law which enacted that the adulteress should be put to death was obsolete at this period. When those who condemned her with-

drew, Christ declined to act as judge in the case, as he had declined on another occasion and in different circumstances with regard to questions of property. He simply declared, "Neither do I condemn thee: go, and sin no more." He does not say: Return to thy husband; for in her case total divorce was inevitable, and *though our Lord condemns the Mosaic law, when the grounds for divorce were inadequate, He does not even question the justice of contemporary Jewish law, when the offence was that of real unchastity.*

§ 8. *Clear distinction drawn between divorce on inadequate grounds and on that of adultery by Christ. The teaching of Christ on the latter offence adopted and developed by Paul. In the latter case in the last resort the State intervenes and recognises officially the separation of the two persons who have been put asunder—not by the Church nor by the State, but by themselves.*

From this examination of the two controversies we conclude that our Lord carefully distinguished between sins of unchastity and lesser offences. With regard to lesser offences

He based His teaching on the words in Genesis : " For this cause shall a man leave his father and mother and cleave unto his wife; and the twain shall be one flesh." The teaching of these words is unmistakable. The man and woman who are joined together in marriage belong to each other. The husband cannot have any illicit connection with any other woman nor the wife with any other man. They are one flesh, or, as St. Paul puts it, they are " one body." This unity of their flesh or body cannot be broken essentially by anything save by adultery, though it may be practically dissolved by deliberate desertion, seeing that desertion makes the bodily union of the two impossible. The union of the flesh is only the first, though an essential, step to the higher union of character and spirit. St. Paul, following the example of the Master, bases his teaching on the same principle. Hence he declares that " he that is joined to a harlot is one body " (1 Cor. vi. 16) : and to prove the validity of this conclusion he quotes the same words from Gen. ii. 24 that our Lord quoted in support of the two being no longer two but one : " For the twain, saith he, shall become one flesh." There cannot, St. Paul makes it

clear, be one body formed by the union of one man and two or more women; nor can there be one body from the union of one woman and two or more men. By such illicit unions marriage is *essentially* dissolved. If the marriage were a true marriage to begin with, and subsequently one of the two persons becomes guilty of unfaithfulness, then that person—and not the Church nor yet the State—puts asunder those whom God had joined together. The State, in the last resort, if called upon, recognises by the law of the land the separation that has already taken place.[1]

§ 9. *Summary. In Matt. xix.* 3–9, *v.* 32, *supported by the short excerpt in Luke xvi.* 18 (see footnote on p. 27), *Christ condemns divorce on inadequate grounds and therewith the Mosaic law which allowed it. In John viii.* 2–11, *He raises no objection to the divorce of the adulterous wife. Herein we have the New Testament teaching on this question. In the unhistorical narrative in Mark x.* 2–12, *Christ is represented as declaring marriage as indissoluble. It is on this unhistorical narrative*

[1] Taken from my book on *The Teaching of the N.T. on Divorce*, p. 68.

that Rome has erected its theory of marriage and nullity.

From the preceding critical examination of the N.T. authorities and not from any Mediæval or Early Church Canons based on fantastic and mistaken interpretations of the teaching of the N.T., we conclude that divorce was recognised by our Lord and His Apostles as legitimate under certain conditions, though divorce even under such conditions is to be regarded as the last resort of the guiltless husband or of the guiltless wife. Rather every attempt is to be made on the part of either to win back the sinning spouse to the true observance of marriage as the union first of the flesh, and next, where possible, of the character and spirit. Should the former prove impossible, then divorce is not only legitimate, but, as I have sought to prove elsewhere from the Pauline Epistles, it is obligatory.[1] Where either the husband or the wife, or, as is sometimes the case, both the husband and the wife, prove obdurate in their unfaithfulness to their marriage vows, they are no longer married before either God or man, but are on a far lower level than the common prostitute, since they conceal their sin

[1] See my *Teaching of the N.T. on Divorce*, p. 70 sq.

under the honourable and sacred bond of marriage. Under the principles laid down by St. Paul, the dissolution of marriage, where one or both partners are unrepentant and obdurate in their adulterous career, should be not optional but obligatory.

We have now, I hope, seen that the authentic narrative of our Lord's controversy with the Pharisees on divorce is not that of Mark but of Matthew, and that St. Paul's references to our Lord's teaching support Matthew's narrative, and likewise the short excerpt in Luke xvi. 18. The natural conclusion to be derived from the narrative of Matthew is that our Lord forbids divorce absolutely on the lesser grounds adduced by the Hillelites. That is the only question that was at issue in this controversy, and that it is so, Christ's words in the Sermon on the Mount, which I shall here repeat for the second time, afford incontrovertible evidence: "Every one that putteth away his wife, saving for the cause of unchastity, maketh her an adulteress" (Matt. v. 32). Divorce cannot make a woman an adulteress if she is one already. Hence the woman so divorced was not an adulteress, but was divorced on some wholly inadequate ground.

There are thus two conflicting narratives in the Gospels of this interview of the Pharisees and our Lord. In the first, in Matt. xix. 3–9, v. 32, our Lord condemns divorce on inadequate grounds, and therein abrogates the Mosaic law. In the second, in Mark, He is represented as declaring marriage as indissoluble. But since we have found that this narrative is essentially unhistorical, all theories of marriage that are reared thereon are based on a foundation of sand. In John viii. 3–11, our Lord does not raise a single objection to the divorce of the adulterous wife.

And yet it is just on the ground of the unhistorical narrative in Mark that the Roman Catholic Church, following earlier precedents, maintains that marriage is indissoluble, and has committed itself to other conclusions on the subject of a still more questionable nature. Is it strange, then, that it is reduced to the most irrational straits in dealing with this subject by its doctrine of nullity? With the dogma of nullity and with some of Rome's extravagant, fantastic, and often varying grounds for declaring nullity we shall deal in the next chapter.

CHAPTER III

MARRIAGE ACCORDING TO THE REFORMED CHURCHES

§ 1. *Summary of the results arrived at in Chapters I., II.*

In the two preceding chapters I have examined the evidence of the Gospel narratives on the question of marriage, and the grounds on which divorce was held to be justifiable or unjustifiable, and drawn what appears to be the inevitable conclusions that Matthew and not Mark preserves the original form of the narrative, and that the original narrative in Matt. xix. 3–9 deals with divorce on inadequate grounds: that the text of Luke supports that of Matthew against Mark—and that the controversy between Christ and the Pharisees originated in the question, "Is it lawful for a man to put away his wife for any cause?" A saying of our Lord bearing on the same subject is repeated in the

Sermon on the Mount (v. 32) "Whosoever shall put away his wife, saving for the cause of unchastity, causeth her to commit adultery." These words taken by themselves exclude the possibility of the wife being charged with adultery, seeing that they assume her to be guiltless of this charge, and declare that, if the husband puts her away, he will make her what she was not before, that is, an adulteress by her union with some other man. Hence we cannot evade the conclusion that the husband was intending to divorce his wife on a wholly inadequate ground, and that our Lord's words are an answer to the question: "Is it lawful for a man to put away his wife for any cause?" The question, therefore, of the indissolubility of marriage was not the occasion of this controversy.

§ 2. *Christ's ideal conception of marriage, ordained, as He teaches, by God Himself* (*Gen. ii.* 24), i.e. *that it is the union of two beings in one, so far as respects the flesh at the outset. This conception is developed by Paul,* 1 *Cor. vi.* 16. *Unchastity breaks this bond, and not anything external to the two persons. But the sinning and repentant spouse can be forgiven by the*

guiltless, and the severed bond restored without any intervention from without.

And yet our Lord's quotation from Gen. ii. 24 is designed to teach that marriage should be indissoluble, though, owing to human depravity, it could not be so. It was ordained, not by Christ, as the Council of Trent teaches, but, as our Lord teaches, it was ordained by God Himself at the beginning: "Have ye not read that He which made them at the beginning made them male and female, and said, For this cause shall a man leave father and mother and cleave to his wife: and the twain shall be one flesh? Wherefore they are no more twain but one flesh. What therefore God hath joined together let no man put asunder" (Gen. ii. 24). No power ecclesiastical or civil can sever two persons that are faithful to their marriage vows, but, what others cannot do, they can themselves do, and individuals are doing so every day: they are breaking a bond by which God bound them together—a bond which is first of all a union of the flesh—first of all a union of the flesh; for mark how our Lord *repeats* the words, "The twain shall be one flesh. Wherefore they

are no more twain but one flesh." St. Paul quotes the same verse from Genesis with the same implications. "What? know ye not that he which is joined to an harlot is one body; for the two, saith he, shall be one flesh" (1 Cor. vi. 16). Unchastity breaks this bond, and cancels a valid marriage, though the sinning but repentant spouse can be forgiven by the guiltless and the severed bond restored without any fresh religious or civil ceremony.

§ 3. *But the Church, notwithstanding the explicit rejection of Mark's narrative by Matthew, early adopted the implicit teaching of Mark that marriage was indissoluble, and to strengthen this view of marriage, taught that it was a sacrament. But, even if it were conceded that it is a sacrament, it does not follow that it is indissoluble. The Eastern Churches regard it as a sacrament and yet allow of divorce and subsequent remarriage.*

Marriage was not always regarded as a sacrament by the Early Church. When the sacraments were classified, the number of sacraments varied from two to thirty or thereabouts. The number seven is not attested in

any writer before twelfth century. This number was stereotyped by the Council of Trent in sixteenth century, which declared that these seven were instituted by Christ. But there is no evidence for this statement.

But, with the distorted teaching in the Second Gospel (x. 2–12), the Church soon developed the dogma that marriage is indissoluble, and to strengthen the idea that marriage was of this nature, the Mediæval Church taught that marriage was a sacrament. But, even if it were conceded that marriage is a sacrament, it does not follow that it is, therefore, indissoluble. For the Eastern Churches regard marriage as a sacrament and yet allow of divorce.

In the preceding chapters, further, we arrived on a variety of grounds at the conclusion that the parallel narrative in Mark x. 2–12 is a distorted reproduction of the original narrative in Q,[1] and is historically untrustworthy from start to finish. The narrative in Mark changes

[1] Streeter, *Oxford Studies in the Synoptic Problem*, p. 166, writes: "The Marcan version is almost invariably the shorter, but the brevity is caused by the omission of features in the Q version which are obviously original. The Q version is not an expansion of the Marcan: the Marcan is a mutilation of the Q version."

the question put by the Pharisees, "Is it lawful for a man to put away his wife for any cause?" into "Is it lawful for a man to put away his wife" (at all)? Now no Jew would ever have put the latter question. Every Jew by virtue of the Mosaic law, which he regarded as the authoritative and final utterance of God, possessed the right of divorcing his wife. The only question at issue was "On what grounds was such divorce justifiable?" The first words of the narrative in Mark are unhistorical, and every clause that follows is of the same unhistoric brand. It makes impossible additions, it transposes phrases, and assigns words uttered by our Lord to the Pharisees, and *vice versa*. It is difficult, perhaps impossible, to determine whether this perverted form of the narrative was due unconsciously to the channels of tradition through which it came, or whether some of the transmitters deliberately give it a new and unhistorical meaning.

Had the narrative in Mark been historical, it would have formed a proper basis for the conclusion that our Lord held that marriage was indissoluble. But, being unhistorical, it has no further bearing on the question at issue.

But before we proceed further, we should

emphasise the fact that marriage is not a sacrament and that divorce and subsequent remarriage are allowable in certain cases. Furthermore, we should observe, that a sacrament possesses in itself no mysterious spell which makes the union inseparable. Such a characteristic is not essential to the conception of a sacrament; for it is not the fact that every one of the so-called seven sacraments creates a bond incapable of being broken. And thus, even if marriage were in the strict sense a sacrament, which it is not, it does not follow that it should not be cancelled, when its most sacred vows are violated and the hallowed bond that unites husband and wife is broken as fundamentally as any human bond can be broken.

Marriage was not always regarded as a sacrament even by the Mediæval Church. In the days of the Fathers, Baptism and the Eucharist were sometimes described as the sole sacraments, and sometimes only as the chief. When they were classified they varied in number from two to twelve in different writers, while between twenty and thirty were enumerated by later writers.[1] Even in manuals written specially

[1] Hugo de S. Victore, *De Sacramentis, II.*, ix. 1–9; Migne, *Pat. Lat.*, lxxvii. 471.

on the sacraments before the twelfth century the number *seven* is unknown. In that century this number is first found in Peter Lombard, Thomas Aquinas, and others, but it was not till the sixteenth century that the number of the sacraments was stereotyped as seven by the Council of Trent. Further, this Council was not content with its attempt to lend a sacred sanction to this number seven, but went so far as to maintain that all the seven were instituted by Christ.[1] It is hardly necessary to say that for this statement of the Council of Trent there is not an atom of evidence in the N.T. Moreover, it is just as illogical as it is unscriptural. The N.T. plainly defines the two sacraments which were instituted by Christ and ordained with their appropriate signs. As for the remaining five, namely, confirmation, penance, extreme unction, orders, and matrimony, there is not a shred of evidence that Christ instituted any one of them, and of course none that He provided them with their appropriate signs. As for matrimony, our Lord definitely declares that it was instituted not by Him, but by God Himself at the beginning.

[1] *Canones et Decreta . . . Concilii Tridentini*, Editio stereotypa decima . . . Leipsiæ, 1876. See p. 146. Sessio xxix., Can. 1.

That the number is illogical is no less clear. For if we maintain that there are more than two sacraments, then there is no logical limit to their number, seeing that every good thing in God's world can in some sense be regarded as a sign or symbol or sacrament of something greater and more spiritual.

§ 4. *The Reformed Churches do not regard marriage as a sacrament instituted by Christ, but as a primitive ordinance of God Himself, whereby the most sacred human relation is created that can exist on earth.*

In contrast with the Church of Rome and in accordance with the N.T., the Reformed Churches refuse to regard marriage as a sacrament. They teach, as Christ taught, that it was a primitive ordinance of God, and that the wedded twain are so closely united to each other that they are no more twain but one flesh ; and, as St. Paul taught (Eph. v. 32), that this mystery, whereby two beings become one, in respect at least of the flesh, is a symbol of the greater union between Christ and the Church. Accord-

ingly they consecrate and crown it with the benediction of the Church—that is, the body of all faithful people—and regard a merely civil marriage, as valid indeed, but lacking in the blessing of the Christian community—that blessing that attends on an act, truly religious in itself, and invoking the witness of both God and men to the vows given and received.

When two persons are united together in marriage they cannot break this bond because one of them offends or has become distasteful to the other. They are bound together by the most sacred vows and under the most solemn sanctions. In God's presence they made them: by His help they can, and therefore they ought to, fulfil them. Marriage is not a mere product of a passing fancy or of a transient passion, which must sooner or later lose its force, and which at the outset often lends an ideal character to very ordinary men and women. When this temporary attraction passes away, then it is the task of the wife or husband to love and to trust the other, and to rise to greater heights of character, in order to draw the other higher too. *Marriage creates the most sacred human relation* that can exist on earth.

§ 5. *Marriage is a school for the making of character, when it is best made. It presupposes mutual loyalty. Only unchastity or something which makes the union of the pair impossible can cancel marriage.*

The poet Keats has somewhere said that this life is a vale for the making of souls—a very true description. Of marriage it can just as truly be said that it is a school for the making of character, when character is best made. Men and women can learn in this relation to become forbearing, just, loving, great, and to attain to heights of unselfishness, which are normally beyond the range of the celibate life. It is God that instituted this way for bringing out what is noblest and divinest in man, and we cannot for a moment question God's wisdom therein. What is best and divinest in man can only be developed in the face of difficulties lesser or greater. But difficulties to the true man and the true woman become faith's opportunities, when met in the right spirit. I have known numbers of wedded folk, who, meeting their daily difficulties in this spirit, have surmounted them and grown nobler in the achievement, and so won ultimately

to heights of blessedness in their later years that were altogether undreamt of in the earlier days of passion and of youth. Marriage in accordance alike with God's own purposes in creation and man's own experience in life is the best school of human character.

Moreover, even when the solemn vows of marriage are broken, every effort should be made to bring back to loyalty the unfaithful. But when such efforts are made and prove unavailing, then divorce must ensue through the intervention of the State, and the divorce can be followed, should it be so desired, by the remarriage of the guiltless.

God has ordained from the beginning that the twain should be one flesh—a union that can be severed only by unchastity, or by something that makes their union impossible. So also do all the Churches ordain, save that of Rome, and all Christian States save two or three that are mere thralls of Rome in matters ecclesiastical. They recognise that, where this solemn bond has been irretrievably broken or made impossible, then divorce complete and absolute must follow. Should children have been born prior to the divorce, they are of course legitimate by the law both of God and man.

CHAPTER IV

MARRIAGE ACCORDING TO THE ROMAN CHURCH: ITS PECULIAR DOGMA OF NULLITY

HAVING dealt with the teaching of the N.T. and of the Reformed Churches, it is now my duty to deal with the teaching of the Roman Church on this question, and especially its peculiar dogma of Nullity. When the reader has digested the facts that follow, he will find it difficult to evade the conclusion that the action of Rome in relation to marriage is in certain respects often irrational and lawless. This is a grave charge, and should not be made unless it is adequately sustained.

§ 1. *The Roman dogma of Nullity, so far as this is peculiar to Rome, is contrary to the law of God and man.*

Before we enter on an examination of this dogma, we must distinguish divorce from a decree of nullity. Divorce according to the teaching of

the Reformed and Eastern Churches, as well as of the N.T. and of course of the O.T., annuls a true marriage, whereas a decree of nullity declares that there was no marriage at all. Now all the Churches do agree that some marriages are null and void from the outset—as, for instance, when one of the pair has already a spouse and that spouse still living, or when one of the pair is impotent, or insane, or has been forcibly coerced, or when one is allied to the other by degrees of relationship forbidden by all the Churches. But it is not with such fundamental impediments that make true marriage impossible that we are here concerned, but with the various trivialities, which Rome has transformed into impediments, and which, it maintains, render marriage null and void, unless a dispensation from Rome has been previously secured. With some of these and the lawlessness and unreason they have introduced into the Vatican decrees on marriage we shall deal presently.

Rome herein labours under a twofold disability, which renders its judgments in this province lawless and irrational. It has first of all declared that marriage is indissoluble, and next

it had devised a series of artificial, fanciful, and often grotesque impediments to a valid marriage.

What it has considered as radical impediments in one country are not impediments in another,[1]

[1] Thus in the decree *Tametsi* (Council of Trent, 1563, see p. 147, *op. cit.*). Though it declares that hitherto "clandestine marriages made with the free consent of the contracting parties are valid and true marriages, so long as the Church has not rendered them invalid" (clandestina matrimonia, libero contrahentium consensu facta, rata et vera esse matrimonia, quamdiu ecclesia ea irrita non fecit), yet it ordains that henceforth such marriages were to be null and void, unless made "in the presence of the parish priest or of some other priest by the permission of the parish priest or of his ordinary, and in the presence of two or three witnesses" (qui aliter, quam præsente parocho, vel alio sacerdote de ipsius parochi seu ordinarii licentia, et duobus vel tribus testibus matrimonium contrahere attentabunt, eos sancta synodus . . . hujusmodi contractus irritos et nullos esse decrevit, prout eos præsenti decreto irritos facit et annullat).

Thus certain marriages which were perfectly valid before the Council of Trent, ceased to be valid where this decree had been promulgated. In many countries, however, the decrees of the Council of Trent were not promulgated. Hence in such countries the impediments which made clandestine marriages null and void could not and were not enforced. Neither in England nor Scotland nor in Protestant countries as a rule was the decree *Tametsi* promulgated, and accordingly *clandestinity* did not render the marriages of Roman Catholics null and void in such countries. Thus what was a valid marriage in one country was absolutely null and void in the adjoining one.

But in 1908 the Roman Church, with its characteristic arrogance, declared in the decree *Ne Temere* (sect. iii.), that "Only those marriages are valid which are contracted before the parish priest, or the ordinary of the place, or a priest delegated by either of these, and at least two witnesses"—with only two exceptions: (*a*) where death was imminent, any priest in the absence of those above authorised could officiate,

and what it has decreed as such impediments in one century, it has brushed aside as trivialities in another.[1] This is genuine lawlessness on the

(*b*) or where no priest could be secured a declaration of consent by the parties in the presence of two witnesses would be deemed sufficient.

The *Ne Temere* decree differs from the *Tametsi* in that its publication in each parish was not required in order to render it operative. Transmission to ordinaries sufficed for its legitimate publication. But the German nation has refused all recognition of this decree—not to speak of certain other countries.

In sect. xi. 3 of this decree it is stated that "Non-Catholics, whether baptized or unbaptized, who contract among themselves are nowhere bound to observe the Catholic *form* of betrothal or marriage."

But the word "form" in this decree should be observed; for the Roman Church distinctly teaches that this decree "does not change or modify the other matrimonial impediments" (Devine, *Law of Christian Marriage according to the Teaching and Discipline of the Catholic Church*, p. 333). This book bears the imprimatur of the Vicar-General (Jan. 20, 1908), Gulielmus, Episcopus Arindelensis (quoted from Fleming's *Church of Rome and Marriage*, p. 19).

Since Rome claims that all baptized persons whether within or without her own communion are subject to her decrees, it follows that the capricious and trivial and constantly shifting impediments ordained by Rome are binding on the members of the Anglican and Reformed Churches, and that such members of these Churches as have married their third cousins are living in concubinage and that their children are illegitimate. This unspeakable effrontery, not to say this blasphemy, of certain celibates in the Roman Church would only be a subject for derision, save for the lamentable consequences that often flow from this *Ne Temere* decree. The English Empire should take measures to forbid its recognition within its boundaries as Germany has done.

[1] *Before* 1215 A.D., the marriage of those who were related to one another *in the seventh degree* of consanguinity or affinity was forbidden (Fleming, *Church of Rome and Marriage*, p. 3). Affinity which was produced by *illicit intercourse* formed as effective an impediment as

part of a Church *which claims to be infallible.* Thus should two persons who are related by blood or marriage as first, or second, or third cousins marry (*i.e.* as persons descended from the same great-great- grandfather or grandmother), their marriage is declared null and void, unless Rome has previously granted a special dispensation. Should they have stood as godparents to the same child, they stand under the same condemnation. Even if they were baptized or confirmed together, though otherwise wholly unrelated, their marriage was at certain periods declared to be spiritual incest.[1]

affinity by marriage. Thus the marriages of all persons who were descended from the same great-great-great-great-great- grandfather or grandmother were null and void, unless dispensations had been previously obtained. But the Lateran Council in 1215 abrogated those *beyond the fourth degree.* As regards impediments due to illicit intercourse, if a man before his marriage had been guilty of unchastity with a woman who stood in the fourth degree of consanguinity to his wife, his marriage was null and void, and he could, when he wished, secure a decree to that effect in the Consistorial Court. The Council of Trent, in the sixteenth century, limited this particular impediment to the first and second degree (*Tametsi*, ch. iv.).

[1] "A godparent could neither marry his or her godchild, nor an actual parent of that child. The same restrictions were produced by confirmation. Such was spiritual consanguinity; and its logical excrescence, spiritual affinity, nullified marriage between the widow or widower of the godparent and the person baptized or confirmed . . . and either of the actual parents of the person baptized or confirmed" (Fleming, *op. cit.*, p. 4). On the further limitations of such impediments by the Council of Trent, see Fleming, *op. cit.*, p. 8.

Rome is the victim of its own lack of critical insight, its own lack of a sound judgment, its own spiritual shortsightedness, its own casuistries and sophistries from one age to another.

§ 2. *The illogical nature of Canon* 1114, *which declares that the children of parents, whose marriage Rome has declared null and void, and whose most intimate relations, therefore, were only those of infamy and sin, are nevertheless legitimate.*

At the same time, lest it should provoke the members of its own communion to actual rebellion, it resorts to compromises, it palters with truth and common sense, and by virtue of Canon 1114—the most sophistical utterance of an ecclesiastical body—it maintains that the children of a marriage, which it has pronounced null and void in its inception and consummation, are yet perfectly legitimate. Only persons who have surrendered their right of private judgment absolutely, and made themselves the mere echoes of an irrational casuistry, could believe that two persons who had never married and lived only in a state of sin could, notwithstanding, be the

parents of legitimate children. By this canon Roman casuists seek at once to propitiate public opinion, and to atone to the children for the wrong done to them by the declaration of the nullity of their parents' marriage. But no such irrational declaration of the Roman Church can restore to the children the moral or social self-respect, that naturally springs from the consciousness that they are the legitimate offspring of their parents, and not of two persons whose most intimate relations to each other were those only of infamy and sin. If their parents were not married, then no sophistry and equivocation can erase the dire record of the past, and prove that children are legitimate, who, according to the law of their Church, were born of parents who were unmarried and living in sin, are essentially illegitimate. Either, then, the marriage is not null and void, and the children are legitimate, or, if it is null and void, the children are of necessity illegitimate. To maintain that the children of unmarried parents are legitimate is not only false, but the attempt to gain credence for such a perversion of the truth is a gross affront to all thoughtful and sane minds.

§ 3. *Examples of Rome's method of dealing with marriage by declaring nullity:* 1. *Owing to consanguinity—but Rome's decree relating to two Canadians reversed by the Privy Council.* 2. *Owing to spiritual affinities.* 3. *Owing to a Jewess wife becoming a Christian.* 4. *Owing to coercion in greater or lesser measure.*

Springing then from an unhistoric basis and developed by casuistical methods, the dogma of nullity, unless where physical impotence or some other like serious defect [1] exists, leads to results that are always immoral, and that differ from each other only in lesser or greater degrees of immorality. Let us adduce from present and past history a few actual examples of the Roman methods of dealing with marriage, when it declares it null and void.

1. One ground for declaring nullity is *consanguinity* or *blood relationship* even of a remote character. In the year 1914 the marriage of two Roman Catholic French Canadians in Quebec, who had been married for ten years, was declared

[1] Such as insanity at the time of marriage, impersonation of the betrothed, sheer force, etc.

null and void, and they were accorded the liberty to contract fresh marriages forthwith. The ground for the declaration of nullity was that they were third cousins, being descended from common ancestors, who were married in 1781 and were the great-great-grandparents of the two persons concerned. These two Canadians had no knowledge of the fact that they were third cousins when they married. Notwithstanding, owing to the operation of a now obsolete[1] Roman canon, for Roman canons change from time to time, and from country to country, their marriage was declared null and void on the ground of this remote relationship. I may add that the Privy Council, by a Judgment of the Lords of the Judicial Committee in 1921, reversed this decree of nullity and declared the above marriage to be valid.[2] Here the Supreme English authority re-examined the judgment of the Roman Church and reversed it. On the other hand, the Roman Church in Quebec, and the State as well, prohibits definitely the marriage of uncle and niece,[3] and yet Rome

[1] Judgment of the Judicial Committee of the Privy Council, Feb. 11, 1921, p. 15.

[2] *Op. cit.*, p. 15.

[3] *Op. cit.*, p. 14.

authorises it as it did in 1888, and claims the right to authorise such marriages when it pleases, but only in the case of great princes (*Tametsi*, ch. vi.).

A few other examples of a like breach of the sacrosanct laws of marriage, and the replacing of them by the sophisms of ecclesiastics, I will take from English and European history generally. Odo, Archbishop of Canterbury, declared in 958 that the marriage of King Edwy the Fair with Elgiva was null and void on the ground of a distant relationship. This was a constant ground for this breach of Divine law by Rome.

2. Nullity owing to spiritual affinities. But it is not only blood relationships, even of a remote character, but spiritual affinities such as are constituted by two persons being godparents to the same child, that can render marriage null and void. Thus in the fourteenth century Pope John xxii. (1316–1334) " practically in the same breath annulled a royal marriage because the parties had been godparents to the same child, and granted the royal treasurer a formal dispensation to marry a lady who had twice been godparent with him to different chil-

dren."[1] This shocking story was chalked on the walls of Paris and plunged the faithful into hopeless bewilderment, while it furnished to unbelievers an endless theme of laughter and derision. And this was no solitary scandal. From nearly every generation of the past six centuries, like marriage scandals of a less or a still more offensive kind can be quoted as originating with the Vatican. The Vatican makes and unmakes at its own caprice what it calls the laws of God.

3. Owing to a married Jew or Jewess becoming a Christian, the Jewish marriage becomes invalid. Another glaring breach of the Divine law of marriage is to be found in the declaration of Rome that, if the wife of a Jew becomes a Christian, the Jewish marriage is thenceforth completely dissolved. About seventy years ago, in the Roman States of the Church, a merchant's clerk, who was a Christian, seduced his master's wife, who was a Jewess. The Jewess together with her children fled with her seducer to Bologna, and there she and her children were baptized into the Christian Church. In vain did the unhappy Jewish father seek to recover

[1] G. C. Coulton (*The Times*, November 20, 1926) on the authority of Baluze's *Vitae Paparum Avenionensium*, i. 700.

his wife and children. So far from listening to his appeal, the Cardinal Legate himself not only married this shameless Jewess to her Christian seducer, but also required the unfortunate Jewish husband and father to grant an annual allowance for the support of this adulterous Christian household.[1]

4. Again, Rome is ready to declare a marriage null and void on the ground of coercion.[2] This

[1] Von Hase, *Controversy with Rome* (English Transl.), 1906, ii. 306 sq.

[2] This ground for the declaration of nullity leads to the most questionable results. It has lately been brought into undesirable prominence by a recent case affecting an English peer and an American heiress. As the *Solicitors' Journal* (January 1, 1927) states, the Incumbent of the Church where the ceremony took place emphatically denies that Miss Vanderbilt was an unwilling bride: and further testifies that she was described as "radiant" by one of the officiating clergy.

"Probably few marriages have had such publicity, and the bride, stated to be terrified by her mother, must have had the chance of appeal to hundreds of her friends to help her. But she appealed to none, took her title and bore the Duke two sons before she found out, like the petitioner for annulment in David Copperfield's case, who married in his wrong name, 'in case he was not as comfortable as he hoped to be,' that she was not as comfortable as in fact she hoped to be, and then she procured a divorce in the English Court. The chief evidence given for the annulment, according to *The Times* summary of December 8, was that of the petitioner and her mother, the latter no doubt anxious to regularise her daughter's present marriage, and therefore freely testifying to her own tyranny for this purpose. The value of such testimony, when the lady had no fear of consequences, and without the record of a rigid and efficient cross-examination, may be judged accordingly. The assumption was made in the note that

factor in Roman marriage law has been the source of intolerable evils. In former days it was not unusual for a Polish bride of aristocratic birth to have her ears boxed in the presence of witnesses in order, if occasion should require it, to base upon this fact a proof of the nullity of the marriage, the proof tending to show that the marriage was the result of coercion.[1] This travesty of marriage is, according to recent information, still occasionally practised at the

the annulment of the marriage rendered the issue of it illegitimate, on the ordinary principle of law that a contract which is declared absolutely and altogether void, is not valid for its chief purpose. English lawyers will perhaps be less surprised at the error of this assumption than at the anomalous effect of the Roman decree of nullity, which the plain man will hardly distinguish on this point from the English divorce."

"An annulment by the Roman Church has, of course, no effect whatever in English law, and it may be added, it is unthinkable that our court would grant one in such circumstances" (*op. cit.*, November 20, 1926). A century ago nullity decrees were on a few occasions issued by English Courts (as the London Consistory Court, Johnstone *v.* Parker, 1819, see 3 Phillimore, p. 39), even when the marriage had subsisted for many years and when in this case children were born. The ground for such a verdict was that the brides were minors and had married against the consent of their guardians. But the English Courts do not claim to be the organ of an infallible Church. Their verdicts may be reversed subsequently on the discovery of fresh evidence or wiser conclusions, and as the *Solicitors' Journal* states, such verdicts as that of the Roman Rota would be unthinkable in English Courts at the present day.

[1] Von Hase, *op. cit.*, ii. 308.

present day. Certain words, according to my informant—a high dignitary of the English Church—who had the information directly from a Pole whom he met recently, are omitted deliberately from the marriage service, and this fact is registered in order to prove, if the need should arise, that the marriage was null and void. By such measures an immediate ordinance of God is desecrated beyond conception. Rome of course could not, if these evasions were brought to light, acknowledge such a marriage. But, by its false conception of marriage, it drives some of its children to turn what they conceive to be a sacrament into an act of sacrilege. Thus in practice Rome has made it easy for any one, who is ready to lie with sufficient effrontery, to secure a declaration of the nullity of his marriage, and accordingly to secure permission to contract a fresh marriage forthwith.

Should the sane minds of our countrymen be inclined to doubt the authenticity of such practices, they have only to refer to the decision of the Sacred Rota at Rome which on April 13, 1927, confirmed the sentence of the (Roman) Diocesan Court of Westminster, which court had already declared the Marconi marriage null and void. This decision followed closely on the heels

of that of the Vanderbilt-Marlborough marriage. According to the evidence it appears that the bridegroom and bride in this marriage agreed before their marriage that either of the persons concerned should be at liberty to sue for a declaration of nullity. "The decision in this Marconi case makes it clear . . . to all . . . Romanists who may be contemplating marriage, that they can easily and certainly evade their Church's professed principle of the indissolubility of the marriage tie, by agreeing beforehand, and with a few of the bride's relatives, that they reserve the right to sue for a divorce. If they do so, and afterwards . . . get tired of each other, they can apply to the Sacred Roman Rota, and that court will pronounce their marriage to have been and to be null; and . . . will according to *The Tablet* . . . be discharging its duty in setting the parties free to enter into other marriages." [1]

A husband can devise some convenient impediment and keep it in the background for years, and then bring it forward, when it suits his purpose. Recently an Italian married an American woman, and stated that he was domiciled in a certain parish in Rome. On the ground that this de-

[1] Quoted from Dr. Fleming's *Church of Rome and Marriage*, p. 56.

claration of domicile was false, and that his only domicile was at Bologna, this unprincipled Italian succeeded in getting his marriage declared null and void two years later.[1]

As our next illustration, let us take the case of Henry VIII., which is constantly adduced by the Roman Church as an instance of its readiness to uphold at all costs the sacredness of the marriage state. Only those who are ignorant of the facts, or who deliberately misrepresent them, can quote this famous case in favour of Rome. The matter has been put in a few words by G. M. Trevelyan, the Professor of Modern History at Cambridge, in his *History of England*, published only last year, and their truth cannot be questioned in any particular. He writes (p. 301): "The refusal of the Pope (Clement VII.) to liberate Henry VIII. was not due to scruples: he had only recently divorced Henry's sister Margaret, Queen of Scotland,[2] on a far less reasonable excuse, and

[1] Canon Lacey in *The Times*, November 18, 1926.

[2] Margaret, the widowed Queen of James IV. who was killed at Flodden in 1513, married the sixth Earl of Angus in the following year, and had as issue a child who was afterwards the mother of Darnley. But Margaret, tiring of Angus, succeeded in getting this marriage declared null and void by the Vatican in 1527. Two different grounds were alleged. One that James IV. had survived Flodden for three years —a manifest perjury: the other that the marriage was null and void,

his predecessors had released monarchs like Louis XII. of France, when they desired divorce on no grounds save reasons of State. But he (Clement) could not oblige Henry, because after the sack of Rome he was in the power of Charles V., who was Catherine's uncle and zealous protector."

Further, Henry VIII. sought to divorce Catherine in 1526, whereas Anne Boleyn did not appear as her rival till 1527 (Acton, *Hist. Essays*, p. 57).

Whatever view, from the standpoint of the Anglican Church, we may take of Henry VIII.'s request for a declaration of nullity, no just objection could be raised by Rome to such an appeal, if account were taken of Rome's past history in like cases.[1] Just consider Henry's

seeing that Angus had been already betrothed to the sister of the second Earl of Bothwell. In 1528 Margaret married Henry Stewart, afterwards created Earl of Methven. Nine years later she succeeded in procuring a decree of the nullity of this marriage, the publication of which her son King James would not allow, "to prevent," as it has been suggested, "the scandal of his mother marrying a fourth husband while her second and third were still alive." See D. H. Fleming, *Church of Rome and Marriage*, pp. 4, 33–36. The Vatican can be judged in the light of these facts, which could be multiplied *ad nauseum*.

[1] Alexander VI. had some years earlier declared the nullity of Louis XII.'s marriage with Jeanne, a princess of stainless character and high ability, though, on the other hand, she was lame. Through this declaration of nullity Louis was able to marry Anne of Brittany, to whom he was attached, and who was also a great heiress.

position : when only a child of twelve, Henry was betrothed by his father Henry VII. to Catherine, the widow of his late brother Arthur. The sole grounds for this betrothal were economic and political. Moreover, the betrothal was contrary to the Levitical law and the Christian law of the time. Surely this betrothal was in no small degree due to parental coercion, not to speak of its being illegitimate from the standpoint of the O.T. Levitical law and the Church law of the sixteenth century.

Warham, the then Archbishop of Canterbury, other Archbishops and Cardinals, and even Pope Julius II.,[1] entertained doubts as to the validity of a marriage between Henry VIII. and the widow of his late brother on the ground that such a marriage was distinctly forbidden in Leviticus (XX. 21).

Material interests, however, carried the day, and Henry VIII. was in due course married to Catherine. It is a remarkable coincidence that the judgment pronounced on such a marriage in Lev. XX. 21, that it would be " childless," was herein all but literally realised, seeing that, though several boys

[1] Pollard, *Cranmer and the English Reformation*, 1904, pp. 29, 30, 32.

were born to Henry, they all died in infancy or childhood. Only one girl—known later as Queen Mary—survived.

Clement's refusal of Henry's appeal was, as the Cambridge professor states, due to no scruples of conscience. The Pope was involved in political struggles between France and the German Empire, and in order to escape fresh embarrassments through a struggle with England, he actually "proposed more than once that Henry should take a second wife without troubling about the divorce of his first . . . (for) it was not so very long since a pope had allowed a King of Castile to take a second wife on account of the sterility of his first." [1]

What moral confidence, then, of any kind could the English nation in Henry VIII.'s day repose in Rome in the face of the history of its popes and their adjudications on the question of marriage? A modern Roman Catholic historian [2] deplores the degradation and corruption of the Papacy, which he unduly limits to the seventy years preceding Luther's famous protest in 1517.

[1] *Cranmer and the English Reformation*, 1904, pp. 30–32. Cf. Acton, *Hist. Essays*, pp. 26, 51.

[2] Mr. Belloc in *The Universe*.

He thinks that "if some man of great vigour and great genius" had arisen during this period, the Reformation would never have taken place. But why desiderate "a man of great vigour and great genius," seeing that according to this writer, and Roman writers generally, the popes were then as always God's regents on earth, and were endowed in all great crises with the gift of infallibility? The natural conclusion of the sane English mind was, of course, that the popes have not and never had any such supernatural powers or gifts. Is it strange that under such circumstances the entire body of the English bishops, clergy, seculars, and regulars to the number of 20,000, with the exception of 300, broke with Rome as an impure and untrue branch of Christ's Church?

But let us return to our original subject. The Vatican claims to be an upholder of the purity of the marriage tie. Let us judge this claim in the light of history, and let me quote the Vatican's record in this respect at the beginning of the sixteenth century, from Canon Lacey's work, entitled *Marriage in Church and State* (p. 160). Canon Lacey, who is a pronounced Anglo-Catholic, writes: "When the legitimated bastard

of a pope could marry the bastard daughter of a King of Arragon . . . and . . . their son could marry the bastard daughter of a Spanish Archbishop, marriage might seem to be on the way to become an extinct institution."

Further, just imagine a Pope,[1] who was a contemporary of Henry VII. and Henry VIII., appointing his own daughter to act as regent at the Vatican when he left Rome on a warlike expedition against one of his vassals ?

Considering the action of the Vatican in regard to other royal marriages, it was not unreasonable for Henry to expect the fulfilment of his request. But Rome's action with regard to marriages, whether it declares them null and void, or refuses to do so, can seldom in the past or the present be declared to be equitable from the standpoint of civil law or from that of justice pure and simple. Even its own children cry out in their despair, as the readers of *The Times* in November and December last year are well aware. Thus, last November a Roman Catholic, who gave his name and London address, wrote as follows in *The Times*: "Thousands of her own children who fondly imagine that they are

[1] Alexander VI. His daughter was Lucretia.

married must be living in a state of sin." So he reasonably concluded from a recent decree of the Vatican, and it is not unjust to infer that no member of the Roman Church can ever be certain that his or her marriage is a valid one. But Monsignor Moyes in a subsequent number of *The Times*[1] sought to comfort the troubled souls of Rome's children by the assurance that "nine out of every ten marriages are absolutely secure." But the rejoinder is unanswerable: Who knows that he or she is one of the nine and not the tenth?

Another dignitary of the Roman Church in England,[2] writing in *The Times*, makes this statement: "We are always dealing with marriages which are null for one or other of these reasons." This authority enumerates fifteen and says there are more. Is it strange that unsophisticated and sound minds conclude that the Roman theory of marriage throws a doubt on the validity of every marriage and on the legitimacy of every child.

The validity of a marriage depends, according to the Roman Church, on free consent at the

[1] November 20, 1926.
[2] J. B. McLaughlin, O.S.B., Carlisle.

actual moment of the marriage, though we must not forget the numberless impediments to which we have already referred, and which render marriage null and void. To return: if the consent is not free and uncoerced at the moment of marriage, no subsequent cohabitation nor years of utmost loyalty on the part of the persons so united can make the marriage valid. Such is the doctrine of the Roman Church according to Monsignor Moyes. A later writer in the *Tablet*, a well-known London Jesuit, however (December 18, 1926), adds that under certain circumstances subsequent cohabitation may render valid a marriage that had been brought about by coercion. Thus, if a woman who marries under coercion learns later that such coercion made the original contract null and void, and, notwithstanding this freshly acquired knowledge of this dogma of the Roman Church, continues to observe freely and faithfully the duties of marriage, the marriage begins to be valid from the moment she knows herself to be free to repudiate it and yet acquiesces in it.

Observe the profound insincerity of such a doctrine. The woman who enters on matrimony under some lesser or greater degree of coercion,

and yet subsequently of her own free will fulfils from the heart all the duties that the truest of wives should, is not married, unless forsooth, she has been informed in the interval of a peculiar dogma of the Roman Church, to the effect that all the time she has not been married at all, but has been playing the part of a concubine. Should she, however, in the face of this extraordinary dogma, freely choose to fulfil her vows, then mark what follows. She becomes a true wife from that moment. Thus her marriage is made valid, not by the fact that she conscientiously and truly fulfils her duties as she promised before God and man, but that it is made valid by the mere accident, whereby she learnt that she need not fulfil them, but, notwithstanding, persists in doing so.

What a perversion of the facts of spiritual life! What multitudes not only of women but also of men enter on marriage under some degree of coercion, whether greater or less, and yet become in due course most loyal and devoted husbands and wives? But this does not hold of marriage only, but of every solemn duty laid on man. However great the coercion be, under which a man undertakes any duty or solemn

obligation, if he does that duty as faithfully as his powers admit, so far he does it unto God, and his powers grow in the measure of his obedience. The marriage that was entered on lightly, capriciously, or under coercion, may through the blessed intimacies of married life bring out the best both in husband and wife, and come to win the benediction both of God and man, though the parties in question may never have heard of the Roman Rota, nor of the sophistries of Roman canonical law, nor even of the Vatican itself. The mark of the upright in such cases is that, though they swear to their own hurt, they do not on that account change, but hold fast to the sanctity of their oath to which they have called both God and man to witness. They do not, like the Roman casuists, set themselves the task of finding pretexts for breaking their vows, when they find it hard to keep them.

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